



RE: ISSUANCE OF SPECIAL OBLIGATION BONDS IN THE AMOUNT OF \$3,085,000.00

Background:

In order to purchase the RDE water system and make necessary capital improvements to the system, the City has chosen to issue \$3,085,000.00 in Special Obligation bonds to finance the acquisition. The system itself is \$2,500,000.00, leaving \$500,000.00 for capital improvements. The remaining money will be used for issuance costs. Our Municipal Advisor, Baker Tilly, issued an RFP to area banks for a private placement. Commerce Bank (Clayton Holdings) came back with the most favorable rate and terms.

Analysis:

Issuing these bonds will help the City gain the RDE water system without depleting cash balances.

Recommendation:

Staff recommends passage of this ordinance

MEMO SUBMITTED BY:

Jennifer Evans | Director of Finance

jevans@nixa.com | 417-724-5625

ORDINANCE NO. _____

OF

CITY OF NIXA, MISSOURI

PASSED

October 11, 2022

\$3,085,000
CITY OF NIXA, MISSOURI
SPECIAL OBLIGATION BONDS
SERIES 2022A

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101 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING THE**
102 **ISSUANCE OF \$3,085,000 PRINCIPAL AMOUNT OF SPECIAL OBLIGATION**
103 **BONDS SERIES 2022A, OF THE CITY OF NIXA, MISSOURI AND CERTAIN OTHER**
104 **DOCUMENTS AND ACTIONS BY THE CITY.**
105

106
107 **WHEREAS**, City of Nixa, Missouri (the “City”), is a constitutional charter city and
108 political subdivision of the State of Missouri, duly created, organized and existing under
109 and by virtue of the Constitution and laws of the State of Missouri; and
110

111 **WHEREAS**, the City desires to finance the costs of certain capital improvements
112 and equipment as described on **Exhibit B** to this Ordinance (the “Project”), and the City
113 is authorized under the provisions of the Constitution of Missouri and its Charter to issue
114 and sell special obligation bonds for the purpose of providing funds to finance the
115 Project and to provide that the principal of and interest on such special obligations
116 bonds shall be payable solely from amounts appropriated on an annual basis by the
117 City Council; and
118

119 **WHEREAS**, it is hereby found and determined that it is necessary and advisable
120 and in the best interest of the City and of its inhabitants that special obligation bonds be
121 issued and secured in the form and manner as hereinafter provided to provide funds for
122 such purpose;
123

124 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
125 **NIXA, AS FOLLOWS, THAT:**
126

127 **ARTICLE I**

128 **DEFINITIONS**

129
130
131 **Section 101. Definitions of Words and Terms.** In addition to words and terms
132 defined elsewhere herein, the following words and terms as used in this Ordinance shall
133 have the following meanings:
134

135 **“Arbitrage Instructions”** means the arbitrage investment and rebate
136 instructions contained in the City’s Federal Tax Certificate, as the same may be
137 amended or supplemented in accordance with the provisions thereof.
138

139 **“Bond Counsel”** means Gilmore & Bell, P.C., Kansas City, Missouri, or other
140 attorneys or firm of attorneys with a nationally recognized standing in the field of
141 municipal bond financing selected by the City.
142

143 **“Bond Payment Date”** means any date on which principal of or interest on any
144 Bond is payable.
145

146 **“Bond Register”** means the books for the registration, transfer and exchange of
147 Bonds kept at the office of the Paying Agent.
148

149 **“Bondowner”** or **“Registered Owner”** means, when used with respect to any
150 Bond, the Person in whose name such Bond is registered on the Bond Register.

151
152 **“Bond”** or **“Bonds”** means the Special Obligation Bonds Series 2022A,
153 authorized and issued by the City pursuant to this Ordinance.

154
155 **“Business Day”** means a day, other than a Saturday, Sunday or holiday, on
156 which the Paying Agent and the Lender are scheduled in the normal course of its
157 operations to be open to the public for conduct of its banking operations.

158
159 **“City”** means City of Nixa, Missouri, and any successors or assigns.

160
161 **“Closing Date”** means October 13, 2022.

162
163 **“Code”** means the Internal Revenue Code of 1986, as amended, and the
164 applicable regulations of the Treasury Department proposed or promulgated
165 thereunder.

166
167 **“Debt Service Fund”** means the fund by that name referred to in **Section 501**
168 hereof.

169
170 **“Defaulted Interest”** means interest on any Bond that is payable but not paid on
171 any Interest Payment Date.

172
173 **“Defeasance Obligations”** means any of the following obligations:

174
175 (a) United States Government Obligations that are not subject to
176 redemption in advance of their maturity dates;

177
178 (b) obligations of any state or political subdivision of any state, the
179 interest on which is excluded from gross income for federal income tax purposes
180 and that meet the following conditions:

181
182 (1) the obligations are (i) not subject to redemption prior to
183 maturity or (ii) the trustee for such obligations has been given irrevocable
184 instructions concerning their calling and redemption and the issuer of such
185 obligations has covenanted not to redeem such obligations other than as
186 set forth in such instructions;

187
188 (2) the obligations are secured by cash or United States
189 Government Obligations that may be applied only to principal of, premium, if
190 any, and interest payments on such obligations;

191
192 (3) such cash and the principal of and interest on such United
193 States Government Obligations (plus any cash in the escrow fund) are
194 sufficient to meet the liabilities of the obligations;

196 (4) such cash and United States Government Obligations serving
197 as security for the obligations are held in an escrow fund by an escrow
198 agent or a trustee irrevocably in trust; and
199

200 (5) such cash and United States Government Obligations are not
201 available to satisfy any other claims, including those against the trustee or
202 escrow agent; or
203

204 (c) cash.
205

206 **“Determination of Taxability”** means the enactment of legislation, the adoption
207 of final regulations, the issuance of a statutory notice of deficiency, a ruling by the
208 Internal Revenue Service (“IRS”), or a final decision of a court of competent jurisdiction,
209 which holds in effect that the interest payable on any Bond is not excludable from the
210 gross income of the Lender or any bondowner for federal income tax purposes for any
211 reason; provided, however, no Determination of Taxability shall occur until the stated
212 effective date of any such IRS regulation, legislation, notice or ruling, or until the
213 expiration or waiver of all periods for appeal; provided further, that if the City attempts to
214 contest such Determination of Taxability in the name of any bondowner, and the
215 bondowner at any time refuses to permit the City to take such action, then no
216 Determination of Taxability will occur within the meaning of this definition.
217

218 **“Federal Tax Certificate”** means the City’s Federal Tax Certificate relating to the
219 Bonds, as the same may be amended or supplemented in accordance with the provisions
220 thereof.
221

222 **“Fiscal Year”** means the fiscal year of the City, currently the twelve-month
223 period beginning January 1 and ending December 31.
224

225 **“Interest Payment Date”** means the Stated Maturity of an installment of interest
226 on any Bond.
227

228 **“Lender”** means Clayton Holdings, LLC, Kansas City, Missouri, and its permitted
229 successors and assigns.
230

231 **“Lender Agreement”** means the Lender Agreement between the City and the
232 Lender with respect to the Bonds.
233

234 **“Maturity”** means, when used with respect to any Bond, the date on which the
235 principal of such Bond becomes due and payable as therein and herein provided,
236 whether at the Stated Maturity thereof or call for redemption or otherwise.
237

238 **“Ordinance”** means this Ordinance adopted by the governing body of the City,
239 authorizing the issuance of the Bonds, as amended from time to time.

240
241 **“Outstanding”** means, when used with reference to the Bonds, as of any
242 particular date of determination, all Bonds theretofore authenticated and delivered
243 hereunder, except the following Bonds:

244
245 (a) Bonds theretofore canceled by the Paying Agent or delivered to the
246 Paying Agent for cancellation;

247
248 (b) Bonds deemed to be paid in accordance with the provisions of
249 **Section 701** hereof; and

250
251 (c) Bonds in exchange for or in lieu of which other Bonds have been
252 authenticated and delivered hereunder.

253
254 **“Paying Agent”** means the City’s finance director, and any successors or
255 assigns.

256
257 **“Permitted Investments”** means any of the following securities if and to the
258 extent the same are at the time legal for investment of the City’s funds:

259
260 (a) United States Government Obligations;

261
262 (b) bonds, notes or other obligations of the State of Missouri, or any
263 political subdivision of the State of Missouri, that at the time of their purchase are
264 rated in either of the two highest rating categories by a nationally recognized rating
265 service;

266
267 (c) repurchase agreements with any bank, bank holding company,
268 savings and loan association, trust company, or other financial institution
269 organized under the laws of the United States or any state, that are continuously
270 and fully secured by any one or more of the securities described in clause (a), (b)
271 or (d) and that have a market value at all times at least equal to the principal
272 amount of such repurchase agreement and are held in a custodial or trust account
273 for the benefit of the City;

274
275 (d) obligations of Government National Mortgage Association, the
276 Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal
277 Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks and
278 Farm Service Agency;

279
280 (e) certificates of deposit or time deposits, whether negotiable or
281 nonnegotiable, issued by any bank or trust company organized under the laws of
282 the United States or any state, provided that such certificates of deposit or time
283 deposits shall be either (1) continuously and fully insured by the Federal Deposit
284 Insurance Corporation, or (2) continuously and fully secured by such securities as
285 are described above in clauses (a) through (d) above, inclusive, which shall have a

286 market value at all times at least equal to the principal amount of such certificates
287 of deposit or time deposits;

288
289 (f) money market mutual funds (1) that invest in United States
290 Government Obligations, and (2) that are rated in either of the two highest
291 categories by a nationally recognized rating service; and

292
293 (g) any other securities or investments that are lawful for the
294 investment of moneys held in such funds or accounts under the laws of the State
295 of Missouri.

296
297 **“Person”** means any natural person, corporation, partnership, limited liability
298 company, joint venture, association, firm, joint-stock company, trust, unincorporated
299 organization, or government or any agency or political subdivision thereof or other
300 public body.

301
302 **“Project”** means the projects described on **Exhibit B** to this Ordinance.

303
304 **“Project Fund”** means the fund by that name referred to in **Section 501** hereof.

305
306 **“Record Date”** means, for the interest payable on any Interest Payment Date,
307 the 15th day (whether or not a Business Day) of the calendar month next preceding
308 such Interest Payment Date.

309
310 **“Redemption Date”** means, when used with respect to any Bond to be
311 redeemed, the date fixed for the redemption of such Bond pursuant to the terms of this
312 Ordinance.

313
314 **“Redemption Price”** means, when used with respect to any Bond to be
315 redeemed, the price at which such Bond is to be redeemed pursuant to the terms of this
316 Ordinance, including the applicable redemption premium, if any, but excluding
317 installments of interest whose Stated Maturity is on or before the Redemption Date.

318
319 **“Special Record Date”** means the date fixed by the Paying Agent pursuant to
320 **Section 204** hereof for the payment of Defaulted Interest.

321
322 **“Stated Maturity”** means, when used with respect to any Bond or any
323 installment of interest thereon, the date specified in such Bond and this Ordinance as
324 the fixed date on which the principal of such Bond or such installment of interest is due
325 and payable.

326
327 **“Taxable Rate”** means 4.89%.

328
329 **“United States Government Obligations”** means bonds, notes, certificates of
330 indebtedness, treasury bills or other securities constituting direct obligations of, or
331 obligations the principal of and interest on which are fully and unconditionally
332 guaranteed as to full and timely payment by, the United States of America, including
333 evidences of a direct ownership interest in future interest or principal payments on

obligations issued or guaranteed by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities that represent an undivided interest in such obligations, and such obligations are held in a custodial or trust account for the benefit of the City.

ARTICLE II

AUTHORIZATION OF THE BONDS

Section 201. Authorization of Bonds. There shall be issued and hereby are authorized and directed to be issued the Special Obligation Bonds Series 2022A of the City in a principal amount of \$3,085,000 (the “Bonds”), for the purpose of (1) financing the costs of the Project, and (2) paying costs related to the issuance of the Bonds.

Section 202. Description of Bonds. The Bonds shall consist of fully registered bonds without coupons, numbered from R-1 upward in order of issuance, and shall be issued in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof or, if the Outstanding principal amount of the Bonds is less than \$100,000, an amount equal to the Outstanding principal amount of the Bonds. All of the Bonds shall be dated their date of delivery, shall become due on June 1 in the years set forth below, shall be subject to redemption and payment prior to their Stated Maturities as provided in **Article III**, and shall bear interest at various interest rates as follows:

Term Bonds

<u>Stated Maturity</u> <u>June 1</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2032	\$3,085,000	3.86%

Following a Determination of Taxability, and notwithstanding any other provision of hereof to the contrary, the interest rate on the Bonds shall bear interest at the Taxable Rate.

The Bonds shall bear interest at the above-specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the date thereof or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable semiannually on June 1 and December 1 in each year, beginning on June 1, 2023.

Each of the Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be in substantially the form set forth in **Exhibit A** attached hereto.

Section 203. Designation of Paying Agent. The City’s finance director is hereby designated as the City’s paying agent for the payment of principal of and interest on the Bonds and bond registrar with respect to the registration, transfer and exchange of Bonds (the “Paying Agent”).

382 The City will at all times maintain a Paying Agent meeting the qualifications
383 herein described for the performance of the duties hereunder. The City reserves the
384 right to appoint a successor Paying Agent by (1) filing with the Paying Agent then
385 performing such function a certified copy of the proceedings giving notice of the
386 termination of such Paying Agent and appointing a successor, and (2) causing notice of
387 the appointment of the successor Paying Agent to be given by first class mail to each
388 Bondowner. The Paying Agent may resign upon giving written notice by first class mail
389 to the City and the Registered Owners not less than 60 days prior to the date such
390 resignation is to take effect. No resignation or removal of the Paying Agent shall
391 become effective until a successor acceptable to the City has been appointed and has
392 accepted the duties of Paying Agent.
393

394 Every Paying Agent appointed hereunder other than the City's finance director
395 shall be a commercial banking association or corporation or trust company authorized to
396 do business in the State of Missouri organized and doing business under the laws of the
397 United States of America or of the State of Missouri, authorized under such laws to
398 exercise trust powers and subject to supervision or examination by federal or state
399 regulatory authority.
400

401 **Section 204. Method and Place of Payment of Bonds.** The principal of or
402 Redemption Price and interest on the Bonds shall be payable in any coin or currency of
403 the United States of America that, on the respective dates of payment thereof, is legal
404 tender for the payment of public and private debts.
405

406 The principal or Redemption Price of each Bond shall be paid at Maturity by
407 check or draft to the Person in whose name such Bond is registered on the Bond
408 Register at the Maturity thereof, upon presentation and surrender of such Bond at the
409 payment office of the Paying Agent; provided, however, no presentment and surrender
410 of any Bond shall be required for the payment of mandatory sinking fund redemptions
411 under **Section 301(b)** provided that all of the Bonds then Outstanding are then held by
412 a single Registered Owner. The principal or Redemption Price of and interest on the
413 Bonds shall be paid other than at Maturity to the Person in whose name the Bonds are
414 registered on the Bond Register on the Record Date thereof by check or draft or
415 electronic transfer as described herein for the payment of interest. Upon payment other
416 than at Maturity without presentation of the Bond, the Paying Agent shall record the
417 amount of such principal payment on the registration books for the Bonds maintained by
418 the Paying Agent on behalf of the City. If any Bond is presented to the Paying Agent for
419 such payment, the Paying Agent shall also record the amount of such principal payment
420 on the registration books for the Bonds maintained by the Paying Agent on behalf of the
421 City. Notwithstanding the foregoing, the registration books maintained by the Paying
422 Agent shall be the official record of the principal amount on the Bonds at any time, and
423 the Bondowner is not required to present the Bonds for action by the Paying Agent with
424 each payment of principal on the Bond other than for payments at Maturity. The records
425 of the Paying Agent related to the principal amount Outstanding from time to time shall
426 be conclusive, absent manifest error.
427

428 The principal of and interest on each Bond payable on any Bond Payment Date
429 other than at Maturity shall be paid to the Registered Owner of such Bond as shown on

430 the Bond Register at the close of business on the Record Date by check or draft mailed
431 by the Paying Agent to such Registered Owner at the address shown on the Bond
432 Register or at such other address as is furnished to the Paying Agent in writing by any
433 Registered Owner of Bonds, or by electronic transfer to such Registered Owner upon
434 written notice signed by such Registered Owner given to the Paying Agent not less than
435 **5** days prior to the Record Date, and containing the electronic transfer instructions
436 including the bank (which shall be in the continental United States), ABA routing
437 number, address and account name and account number to which such Registered
438 Owner wishes to have such transfer directed and an acknowledgment that an electronic
439 transfer fee is payable.

440
441 Notwithstanding the foregoing provisions of this Section, any Defaulted Interest
442 with respect to any Bond shall cease to be payable to the Registered Owner of such
443 Bond on the relevant Record Date and shall be payable to the Registered Owner in
444 whose name such Bond is registered at the close of business on the Special Record
445 Date for the payment of such Defaulted Interest, which Special Record Date shall be
446 fixed as hereinafter specified in this paragraph. The City shall notify the Paying Agent in
447 writing of the amount of Defaulted Interest proposed to be paid on each Bond and the
448 date of the proposed payment (which date shall be at least **30** days after receipt of such
449 notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such
450 notice an amount of money equal to the aggregate amount proposed to be paid in
451 respect of such Defaulted Interest or shall make arrangements satisfactory to the
452 Paying Agent for such deposit prior to the date of the proposed payment. Following
453 receipt of such funds, the Paying Agent shall fix a Special Record Date for the payment
454 of such Defaulted Interest which shall be not more than **15** nor less than **10** days prior to
455 the date of the proposed payment. The Paying Agent shall promptly notify the City of
456 such Special Record Date and, in the name and at the expense of the City, shall cause
457 notice of the proposed payment of such Defaulted Interest and the Special Record Date
458 therefor to be mailed by first class mail, postage prepaid, to each Registered Owner of a
459 Bond entitled to such notice at the address of such Registered Owner as it appears on
460 the Bond Register not less than **10** days prior to such Special Record Date.

461
462 The Paying Agent shall keep a record of payment of principal and Redemption
463 Price of and interest on all Bonds and shall, upon the written request of the City, forward
464 a copy or summary of such records to the City.

465
466 **Section 205. Registration, Transfer and Exchange of Bonds.** The City
467 covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond
468 Register to be kept at the office of the Paying Agent as herein provided. Each Bond
469 when issued shall be registered in the name of the owner thereof on the Bond Register.

470
471 Bonds may be transferred and exchanged only on the Bond Register as provided
472 in this Section. Upon surrender of any Bond at the payment office of the Paying Agent,
473 the Paying Agent shall transfer or exchange such Bond for a new Bond or Bonds in any
474 authorized denomination of the same Stated Maturity and in the same aggregate
475 principal amount as the Bond that was presented for transfer or exchange. Bonds
476 presented for transfer or exchange shall be accompanied by a written instrument or
477 instruments of transfer or authorization for exchange, in a form satisfactory to the

478 Paying Agent, duly executed by the Registered Owner thereof or by the Registered
479 Owner's duly authorized agent. The registered owner of the Bonds shall have the right
480 at any time to assign, transfer or convey Bonds or any interest therein or portion thereof,
481 but no such assignment, transfer or conveyance shall be effective as against the City
482 unless and until such registered owner has delivered to the City and the Paying Agent
483 written notice thereof that discloses the name and address of the assignee and such
484 assignment, transfer or conveyance shall be made only to (i) an affiliate of the
485 registered owner, (ii) an "accredited investor" under Rule 501(a) of Regulation D
486 promulgated under the Securities Act of 1933, or (iii) a "qualified institutional buyer"
487 under Rule 144A promulgated under the Securities Act of 1933, and the transferee
488 signs a letter substantially in the form of the restriction transfer letter attached hereto as
489 **Exhibit D**. Nothing herein shall limit the right of the registered owner or its assignees to
490 sell or assign the Bonds to one or more entities listed in (i), (ii) or (iii).

491
492 In all cases in which the privilege of transferring or exchanging Bonds is
493 exercised, the Paying Agent shall authenticate and deliver Bonds in accordance with
494 the provisions of this Ordinance. The City shall pay the fees and expenses of the
495 Paying Agent for the registration, transfer and exchange of Bonds provided for by this
496 Ordinance and the cost of printing a reasonable supply of registered bond blanks. Any
497 additional costs or fees that might be incurred in the secondary market, other than fees
498 and expenses of the Paying Agent, are the responsibility of the Registered Owners of
499 the Bonds. In the event any Registered Owner fails to provide a correct taxpayer
500 identification number to the Paying Agent, the Paying Agent may make a charge against
501 such Registered Owner sufficient to pay any governmental charge required to be paid
502 as a result of such failure. In compliance with Section 3406 of the Code, such amount
503 may be deducted by the Paying Agent from amounts otherwise payable to such
504 Registered Owner hereunder or under the Bonds.

505
506 The City and the Paying Agent shall not be required (a) to register the transfer or
507 exchange of any Bond that has been called for redemption after notice of such
508 redemption has been mailed by the Paying Agent pursuant to **Section 303** hereof and
509 during the period of 15 days next preceding the date of mailing of such notice of
510 redemption, or (b) to register the transfer or exchange of any Bond during a period
511 beginning at the opening of business on the day after receiving written notice from the
512 City of its intent to pay Defaulted Interest and ending at the close of business on the
513 date fixed for the payment of Defaulted Interest pursuant to **Section 204** hereof.

514
515 The City and the Paying Agent may deem and treat the Person in whose name
516 any Bond is registered on the Bond Register as the absolute owner of such Bond,
517 whether such Bond is overdue or not, for the purpose of receiving payment of, or on
518 account of, the principal or Redemption Price of and interest on said Bond and for all
519 other purposes. All payments so made to any such Registered Owner or upon the
520 Registered Owner's order shall be valid and effective to satisfy and discharge the
521 liability upon such Bond to the extent of the sum or sums so paid, and neither the City
522 nor the Paying Agent shall be affected by any notice to the contrary.

523
524 At reasonable times and under reasonable regulations established by the Paying
525 Agent, the Bond Register may be inspected and copied by the Registered Owners of

526 10% or more in principal amount of the Bonds then Outstanding or any designated
527 representative of such Registered Owners whose authority is evidenced to the
528 satisfaction of the Paying Agent.
529

530 **Section 206. Execution, Registration, Authentication and Delivery of**
531 **Bonds.** Each of the Bonds, including any Bonds issued in exchange or as substitutions
532 for the Bonds initially delivered, shall be signed by the manual or facsimile signature of
533 the Mayor and attested by the manual or facsimile signature of the City Clerk and shall
534 have the official seal of the City affixed or imprinted thereon. In case any officer whose
535 signature appears on any Bond ceases to be such officer before the delivery of such
536 Bond, such signature shall nevertheless be valid and sufficient for all purposes, as if
537 such person had remained in office until delivery. Any Bond may be signed by such
538 persons who at the actual time of the execution of such Bond are the proper officers to
539 sign such Bond although at the date of such Bond such persons may not have been
540 such officers.
541

542 The Mayor and City Clerk are hereby authorized and directed to prepare and
543 execute the Bonds in the manner herein specified, and, when duly executed and
544 registered, to deliver the Bonds to the Paying Agent for authentication.
545

546 The Bonds shall have endorsed thereon a certificate of authentication
547 substantially in the form set forth in **Exhibit A** attached hereto, which shall be manually
548 executed by an authorized officer or employee of the Paying Agent, but it shall not be
549 necessary that the same officer or employee sign the certificate of authentication on all
550 of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled
551 to any security or benefit under this Ordinance or be valid or obligatory for any purpose
552 unless and until such certificate of authentication has been duly executed by the Paying
553 Agent. Such executed certificate of authentication upon any Bond shall be conclusive
554 evidence that such Bond has been duly authenticated and delivered under this
555 Ordinance. Upon authentication, the Paying Agent shall deliver the Bonds to the
556 Lender upon payment of the purchase price of the Bonds plus accrued interest thereon
557 to the date of their delivery.
558

559 **Section 207. Mutilated, Destroyed, Lost and Stolen Bonds.** If (a) any
560 mutilated Bond is surrendered to the Paying Agent or the Paying Agent receives
561 evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is
562 delivered to the Paying Agent such security or indemnity as may be required by the
563 Paying Agent, then, in the absence of notice to the Paying Agent that such Bond has
564 been acquired by a bona fide purchaser, the City shall execute and the Paying Agent
565 shall authenticate and deliver, in exchange for or in lieu of any such mutilated,
566 destroyed, lost or stolen Bond, a new Bond of the same series and Stated Maturity and
567 of like tenor and principal amount.
568

569 If any such mutilated, destroyed, lost or stolen Bond has become or is about to
570 become due and payable, the Paying Agent, in its discretion, may pay such Bond
571 instead of issuing a new Bond.
572

573 Upon the issuance of any new Bond under this Section, the City may require the
574 payment by the Registered Owner of a sum sufficient to cover any tax or other
575 governmental charge that may be imposed in relation thereto and any other expenses
576 (including the fees and expenses of the Paying Agent) connected therewith.
577

578 Every new Bond issued pursuant to this Section shall constitute a replacement of
579 the prior obligation of the City, and shall be entitled to all the benefits of this Ordinance
580 equally and ratably with all other Outstanding Bonds.
581

582 **Section 208. Cancellation and Destruction of Bonds Upon Payment.** All
583 Bonds that have been paid or redeemed or that otherwise have been surrendered to the
584 Paying Agent, either at or before Maturity, shall be canceled by the Paying Agent
585 immediately upon the payment, redemption and surrender thereof to the Paying Agent
586 and subsequently destroyed in accordance with the customary practices of the Paying
587 Agent. The Paying Agent shall execute a certificate describing the Bonds so canceled
588 and shall file an executed counterpart of such certificate with the City.
589

590 **Section 209. Lender Agreement.** The sale of the Bonds to the Lender at a
591 purchase price set forth in the Lender Agreement in substantially the form of such
592 agreement on file with the City and attached hereto as **Exhibit C**, is hereby authorized.
593 The Mayor is authorized to execute the Lender Agreement with such changes therein
594 as such official deems appropriate, for and on behalf of and as the act and deed of the
595 City, such officer's signature thereon being conclusive evidence of such official's and
596 the City's approval thereof. Delivery of the Bonds shall be made to the Lender as soon
597 as practicable after the adoption of this Ordinance and the execution of the Lender
598 Agreement, upon payment therefor in accordance with the terms of sale.
599

600 **ARTICLE III**

601 **REDEMPTION OF BONDS**

602 **Section 301. Redemption of the Bonds.**

603
604
605
606 (a) At the option of the City, Bonds may be called for redemption and payment
607 prior to maturity in whole, but not in part, at any time at the Redemption Price equal to:
608 (1) 103% of the principal amount then outstanding, plus accrued interest thereon to the
609 Redemption Date, if redeemed prior to the first anniversary of the Closing Date, (2)
610 102% of the principal amount then outstanding, plus accrued interest thereon to the
611 Redemption Date, if redeemed on or after the first anniversary of the Closing Date but
612 prior to the second anniversary of the Closing Date, and (3) 101% of the principal
613 amount then outstanding, plus accrued interest thereon to the Redemption Date, if
614 redeemed on or after the second anniversary of the Closing Date but prior to maturity.
615 Notwithstanding the prior sentence, the Bonds may be called for redemption and
616 payment prior to maturity in whole, but not in part, at any time at the Redemption Price
617 equal to 100% of the principal amount then outstanding, plus accrued interest thereon
618 to the Redemption Date, if the City is using funds other than proceeds of a grant or an
619 actual or anticipated refunding of the Bonds.
620

621 (b) The Bonds shall be subject to mandatory redemption and payment prior to
622 Stated Maturity at a redemption price equal to 100% of the principal amount thereof plus
623 accrued interest to the redemption date. The City shall redeem on June 1 in each year,
624 the following principal amounts of such Bonds:

625
626

<u>Year</u>	<u>Principal Amount</u>
2023	\$265,000
2024	280,000
2025	285,000
2026	295,000
2027	300,000
2028	310,000
2029	320,000
2030	330,000
2031	345,000
2032*	355,000

* Final Maturity

627 At its option, to be exercised on or before the 45th day next preceding any
628 mandatory Redemption Date, the City may: (1) deliver to the Paying Agent for
629 cancellation Bonds subject to mandatory redemption on said mandatory Redemption
630 Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds,
631 together with appropriate instructions, for the purpose of purchasing any Bonds subject
632 to mandatory redemption on said mandatory Redemption Date from any Registered
633 Owner thereof whereupon the Paying Agent shall expend such funds for such purpose
634 to such extent as may be practical; or (3) receive a credit with respect to the mandatory
635 redemption obligation of the City under this Section for any Bonds subject to mandatory
636 redemption on said mandatory Redemption Date that, prior to such date, have been
637 redeemed (other than through the operation of the mandatory redemption requirements
638 of this subsection (b)) and canceled by the Paying Agent and not theretofore applied as
639 a credit against any redemption obligation under this subsection (b). Each Bond so
640 delivered or previously purchased or redeemed shall be credited at 100% of the
641 principal amount thereof on the obligation of the City to redeem Bonds of the same
642 Stated Maturity on such mandatory Redemption Date, and any excess of such amount
643 shall be credited on future mandatory redemption obligations for Bonds of the same
644 Stated Maturity in chronological order, and the principal amount of Bonds of the same
645 Stated Maturity to be redeemed by operation of the requirements of this Section shall be
646 accordingly reduced. If the City intends to exercise any option granted by the provisions
647 of clauses (1), (2) or (3) above, the City will, on or before the 45th day next preceding
648 each mandatory Redemption Date, furnish the Paying Agent a written certificate
649 indicating to what extent the provisions of said clauses (1), (2) and (3) are to be
650 complied with respect to such mandatory redemption payment and any Bonds to be
651 credited pursuant to (3) above.

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Section 302. Selection of Bonds to Be Redeemed.

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(a) The Paying Agent shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Paying Agent at least 35 days prior to the Redemption Date of written instructions of the City specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. If the Bonds are refunded more than 90 days in advance of such Redemption Date, any escrow agreement entered into by the City in connection with such refunding shall provide that such written instructions to the Paying Agent shall be given by or on behalf of the City not more than 90 days prior to the Redemption Date. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in **Section 303** hereof are met. The foregoing provisions of this paragraph shall not apply to the mandatory redemption of Bonds hereunder, and Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the City and whether or not the Paying Agent shall hold moneys available and sufficient to effect the required redemption.

(b) Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof and in a manner so that the Bonds remain outstanding in authorized denominations. When less than all of the Outstanding Bonds are to be redeemed, such Bonds shall be selected by the Paying Agent in \$5,000 units of principal amount by lot or in such other equitable manner as the Paying Agent may determine and in a manner so that the Bonds remain outstanding in authorized denominations.

(c) In the case of a partial redemption of Bonds when Bonds of denominations greater than \$5,000 are then Outstanding, then for all purposes in connection with such redemption each \$5,000 of face value shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond are selected for redemption, then upon notice of intention to redeem such \$5,000 unit or units, the Registered Owner of such Bond or the Registered Owner's duly authorized agent shall present and surrender such Bond to the Paying Agent (1) for payment of the Redemption Price and interest to the Redemption Date of such \$5,000 unit or units of face value called for redemption, and (2) for exchange, without charge to the Registered Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond; provided, however, that the Bonds shall remain Outstanding in authorized denominations. If the Registered Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the redemption date to the extent of the \$5,000 unit or units of face value called for redemption (and to that extent only). Notwithstanding anything contained herein to the contrary, this Section 302(c) shall not apply to a mandatory redemption of the Bonds, and the Bonds shall only need to be presented for payment upon final Maturity or redemption in full.

Section 303. Notice and Effect of Call for Redemption. Unless waived by any Registered Owner of Bonds to be redeemed, official notice of any redemption shall

702 be given by the Paying Agent on behalf of the City by mailing a copy of an official
703 redemption notice by first class mail at least 20 days prior to the Redemption Date to
704 each Registered Owner of the Bond or Bonds to be redeemed at the address shown on
705 the Bond Register.

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708 All official notices of redemption shall be dated and shall contain the following
709 information:

710
711 (a) the Redemption Date;

712
713 (b) the Redemption Price;

714
715 (c) if less than all Outstanding Bonds are to be redeemed, the
716 identification of the Bonds to be redeemed (such identification to include interest
717 rates, maturities and such additional information as the Paying Agent may
718 reasonably determine);

719
720 (d) a statement that on the Redemption Date the Redemption Price will
721 become due and payable upon each such Bond or portion thereof called for
722 redemption and that interest thereon shall cease to accrue from and after the
723 Redemption Date; and

724
725 (e) the place where such Bonds are to be surrendered for payment of
726 the Redemption Price, which shall be the payment office of the Paying Agent.

727
728 The failure of any Registered Owner to receive notice given as heretofore
729 provided or a defect therein shall not invalidate any redemption.

730
731 Prior to any Redemption Date, the City shall deposit with the Paying Agent an
732 amount of money sufficient to pay the Redemption Price of all the Bonds or portions of
733 Bonds that are to be redeemed on that date.

734
735 Official notice of redemption having been given as aforesaid, the Bonds or
736 portions of Bonds to be redeemed shall become due and payable on the Redemption
737 Date, at the Redemption Price therein specified, and from and after the Redemption
738 Date (unless the City defaults in the payment of the Redemption Price) such Bonds or
739 portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for
740 redemption in accordance with such notice, the Redemption Price of such Bonds shall
741 be paid by the Paying Agent. Installments of interest due on or prior to the Redemption
742 Date shall be payable as herein provided for payment of interest. Upon surrender for
743 any partial redemption of any Bond, there shall be prepared for the Registered Owner a
744 new Bond or Bonds of the same series and Stated Maturity in the amount of the unpaid
745 principal as provided herein. All Bonds that have been surrendered for redemption shall
746 be canceled and destroyed by the Paying Agent as provided herein and shall not be
747 reissued.

749 **ARTICLE IV**

750 **SECURITY FOR AND PAYMENT OF BONDS**

751
752
753 **Section 401. Security for the Bonds.** The Bonds shall be special obligations
754 of the City payable as to both principal and interest solely from annual appropriations of
755 funds by the City for such purpose to be deposited in the Debt Service Fund. The
756 obligation of the City to make payments into the Debt Service Fund and for any other
757 obligations of the City under this Ordinance do not constitute a general obligation or
758 indebtedness of the City for which the City is obligated to levy or pledge any form of
759 taxation, or for which the City has levied or pledged any form of taxation and shall not
760 be construed to be a debt of the City in contravention of any applicable constitutional,
761 statutory or charter limitation or restriction but in each Fiscal Year shall be payable
762 solely from the amounts pledged or appropriated therefor (i) out of the income and
763 revenues provided for such year, plus (ii) any unencumbered balances for previous
764 years. Subject to the preceding sentence, the obligations of the City to make payments
765 hereunder and to perform and observe any other covenant and agreement contained
766 herein shall be absolute and unconditional.
767

768 The covenants and agreements of the City contained herein and in the Bonds
769 shall be for the equal benefit, protection and security of the legal owners of any or all of
770 the Bonds, all of which Bonds shall be of equal rank and without preference or priority of
771 one Bond over any other Bond in the application of the funds to the payment of the
772 principal of and the interest on the Bonds, or otherwise, except as to the rate of interest
773 and Stated Maturity as provided in this Ordinance.
774

775 **Section 402. Covenant to Request Appropriations.** The City Council hereby
776 directs that from and after delivery of the Bonds and so long as any of the Bonds remain
777 Outstanding, subject to **Section 401** hereof, the Mayor, the City Administrator, the
778 Assistant City Administrator, the Finance Director or any other officer of the City at any
779 time charged with the responsibility of formulating budget proposals to include in each
780 annual budget an appropriation of the amount necessary (after taking into account any
781 moneys legally available for such purpose) to pay debt service on the Bonds and to
782 make other payments required pursuant to this Ordinance. The City is not required or
783 obligated to make any such annual appropriation, and the decision whether or not to
784 appropriate such funds will be solely within the discretion of the then current City Council.
785

786 **ARTICLE V**

787
788 **ESTABLISHMENT OF FUNDS;
789 DEPOSIT AND APPLICATION OF MONEYS**

790
791
792 **Section 501. Establishment of Funds.** There have been or shall be
793 established in the treasury of the City and shall be held and administered by the Finance
794 Director of the City the following funds for the Bonds:
795

- 796 (a) Project Fund.

797 (b) Debt Service Fund.
798

799 Each fund shall be maintained as a separate and distinct fund and the moneys therein
800 shall be held, managed, invested, disbursed and administered as provided in this
801 Ordinance. All moneys deposited in the funds shall be used solely for the purposes set
802 forth in this Ordinance. The City shall keep and maintain adequate records pertaining to
803 each fund and all disbursements therefrom.
804

805 **Section 502. Deposit of Bond Proceeds.** The net proceeds received from the
806 sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds in
807 the Project Fund and shall be applied in accordance with **Section 503** hereof.
808

809 **Section 503. Application of Moneys in the Project Fund.** Moneys in the
810 Project Fund shall be used by the City solely for the purpose of (a) paying the costs
811 associated with the Project in accordance with any plans and specifications therefor
812 prepared by the City and on file in the office of the City Clerk, including any alterations in
813 or amendments to said plans and specifications deemed advisable and approved by the
814 City Council and (b) paying the costs and expenses of issuing the Bonds. Moneys in
815 the Project Fund shall be disbursed from time to time to pay, or reimburse the City for
816 payment of, the costs of the Project. Any moneys remaining in the Project Fund when
817 the Project is completed and purchased shall be transferred to the Debt Service Fund.
818 So long as any moneys are on deposit in the Project Fund, the City, on each June 1 and
819 December 1, shall provide a report to the Lender showing the balance of funds on
820 deposit in the Project Fund on such date and the deposits and disbursements from the
821 Project Fund during the preceding six months.
822

823 **Section 504. Application of Moneys in Debt Service Fund.** All amounts paid
824 and credited to the Debt Service Fund shall be expended and used by the City for the
825 purpose of paying the Bonds as and when the same become due and the usual and
826 customary fees and expenses of the Paying Agent. The Finance Director is authorized
827 and directed to withdraw from the Debt Service Fund sums sufficient to pay the Bonds
828 and the fees and expenses of the Paying Agent as and when the same become due, and
829 to forward such sums to the Paying Agent in a manner that ensures that the Paying Agent
830 will receive immediately available funds in such amounts on or before the Business Day
831 immediately preceding the dates when such principal, interest and fees of the Paying
832 Agent will become due. If, through the lapse of time or otherwise, the Registered Owners
833 of Bonds are no longer entitled to enforce payment of the Bonds or the interest thereon,
834 the Paying Agent shall return said funds to the City. All moneys deposited with the
835 Paying Agent shall be deemed to be deposited in accordance with and subject to all of
836 the provisions contained in this Ordinance and shall be held in trust by the Paying Agent
837 for the benefit of the Registered Owners of the Bonds entitled to payment from such
838 moneys.
839

840 Any moneys or investments remaining in the Debt Service Fund after the
841 retirement of the Bonds shall be transferred and paid into the appropriate fund(s) of the
842 City as permitted by law.
843

844 **Section 505. Deposits and Investment of Moneys.** Moneys in each of the
845 funds created by and referred to in this Ordinance shall be deposited in a bank or banks
846 or other legally permitted financial institutions located in the State of Missouri that are
847 members of the Federal Deposit Insurance Corporation. All such deposits shall be
848 continuously and adequately secured by the financial institutions holding such deposits
849 as provided by the laws of the State of Missouri. All moneys held in the funds created
850 by this Ordinance shall be accounted for separate and apart from all other funds of the
851 City.

852
853 Moneys held in any fund referred to in this Ordinance may be invested in
854 accordance with the investment policy of the City, as such policy may be amended from
855 time to time, in accordance with this Ordinance and the Arbitrage Instructions, in
856 Permitted Investments; provided, however, that no such investment shall be made for a
857 period extending longer than to the date when the moneys invested may be needed for
858 the purpose for which such fund was created. All earnings on any investments held in
859 any fund shall accrue to and become a part of such fund.

860
861 **Section 506. Nonpresentment of Bonds.** If any Bond is not presented for
862 payment when the principal thereof becomes due at Maturity, if funds sufficient to pay
863 such Bond have been made available to the Paying Agent all liability of the City to the
864 Registered Owner thereof for the payment of such Bond shall forthwith cease,
865 determine and be completely discharged, and thereupon it shall be the duty of the
866 Paying Agent to hold such funds, without liability for interest thereon, for the benefit of
867 the Registered Owner of such Bond, who shall thereafter be restricted exclusively to
868 such funds for any claim of whatever nature on his part under this Ordinance or on, or
869 with respect to, said Bond. If any Bond is not presented for payment within one year
870 following the date when such Bond becomes due at Maturity, the Paying Agent shall
871 repay without liability for interest thereon, to the City the funds theretofore held by it for
872 payment of such Bond, and such Bond shall, subject to the defense of any applicable
873 statute of limitation, thereafter be an unsecured obligation of the City, and the
874 Registered Owner thereof shall be entitled to look only to the City for payment, and then
875 only to the extent of the amount so repaid to it by the Paying Agent, and the City shall
876 not be liable for any interest thereon and shall not be regarded as a trustee of such
877 money.

878
879 **Section 507. Payments Due on Saturdays, Sundays and Holidays.** In any
880 case where a Bond Payment Date is not a Business Day, then payment of principal,
881 Redemption Price or interest need not be made on such Bond Payment Date but may
882 be made on the next succeeding Business Day with the same force and effect as if
883 made on such Bond Payment Date, and no interest shall accrue for the period after
884 such Bond Payment Date.

885 886 **ARTICLE VI**

887 888 **DEFAULT AND REMEDIES**

889
890 **Section 601. Default and Remedies.** The City covenants and agrees that if it
891 defaults in the payment of the principal of or interest on any of the Bonds as the same

892 become due on any Bond Payment Date, or if the City or its governing body or any of
893 the officers, agents or employees thereof fail or refuse to comply with any of the
894 provisions of this Ordinance or of the constitution or statutes of the State of Missouri,
895 and such default continues for a period of 30 days after written notice specifying such
896 default has been given to the City by any Registered Owner of any Bond then
897 Outstanding, or if the City declares bankruptcy, then, at any time thereafter and while
898 such default continues, the Registered Owners of 25% in principal amount of the Bonds
899 then Outstanding may, by written notice to the City filed in the office of the City Clerk or
900 delivered in person to said City Clerk, exercise any of the remedies specified below.
901 This provision, however, is subject to the condition that if all arrears of interest upon all
902 of said Bonds, except interest accrued but not yet due on such Bonds, and all arrears of
903 principal upon all of said Bonds has been paid in full and all other defaults, if any, by the
904 City under the provisions of this Ordinance and under the provisions of the statutes of
905 the State of Missouri have been cured, then and in every such case the Registered
906 Owners of a majority in principal amount of the Bonds then Outstanding, by written
907 notice to the City given as hereinbefore specified, may rescind and annul such
908 declaration and its consequences, but no such rescission or annulment shall extend to
909 or affect any subsequent default or impair any rights consequent thereon.

910
911 The provisions of this Ordinance, including the covenants and agreements herein
912 contained, shall constitute a contract among the City and the Registered Owners of the
913 Bonds, and the Registered Owner or Owners of not less than 10% in principal amount
914 of the Bonds at the time Outstanding shall have the right for the equal benefit and
915 protection of all Registered Owners of Bonds similarly situated:

916
917 (a) by mandamus or other suit, action or proceedings at law or in
918 equity to enforce the rights of such Registered Owner or Owners against the City
919 and its officers, agents and employees, and to require and compel duties and
920 obligations required by the provisions of this Ordinance or by the constitution and
921 laws of the State of Missouri;

922
923 (b) by suit, action or other proceedings in equity or at law to require the
924 City, its officers, agents and employees to account as if they were the trustees of
925 an express trust; and

926
927 (c) by suit, action or other proceedings in equity or at law to enjoin any
928 acts or things that may be unlawful or in violation of the rights of the Registered
929 Owners of the Bonds.

930
931 **Section 602. Limitation on Rights of Bondowners.** The covenants and
932 agreements of the City contained herein and in the Bonds shall be for the equal benefit,
933 protection and security of the legal owners of any or all of the Bonds. All of the Bonds
934 shall be of equal rank and without preference or priority of one Bond over any other
935 Bond in the application of the funds herein pledged to the payment of the principal of
936 and the interest on the Bonds, or otherwise, except as to rate of interest, or date of
937 Maturity or right of prior redemption as provided in this Ordinance. No one or more
938 Bondowners secured hereby shall have any right in any manner whatever by their
939 action to affect, disturb or prejudice the security granted and provided for herein, or to

940 enforce any right hereunder, except in the manner herein provided, and all proceedings
941 at law or in equity shall be instituted, had and maintained for the equal benefit of all
942 Registered Owners of such Outstanding Bonds.
943

944 **Section 603. Remedies Cumulative.** No remedy conferred herein upon the
945 Bondowners is intended to be exclusive of any other remedy, but each such remedy
946 shall be cumulative and in addition to every other remedy and may be exercised without
947 exhausting and without regard to any other remedy conferred herein. No waiver of any
948 default or breach of duty or contract by the Registered Owner of any Bond shall extend
949 to or affect any subsequent default or breach of duty or contract or shall impair any
950 rights or remedies consequent thereon. No delay or omission of any Bondowner to
951 exercise any right or power accruing upon any default shall impair any such right or
952 power or shall be construed to be a waiver of any such default or acquiescence therein.

953 Every substantive right and every remedy conferred upon the Registered Owners of the
954 Bonds by this Ordinance may be enforced and exercised from time to time and as often
955 as may be deemed expedient. If any suit, action or proceedings taken by any
956 Bondowner on account of any default or to enforce any right or exercise any remedy
957 has been discontinued or abandoned for any reason, or has been determined adversely
958 to such Bondowner, then, and in every such case, the City and the Registered Owners
959 of the Bonds shall be restored to their former positions and rights hereunder,
960 respectively, and all rights, remedies, powers and duties of the Bondowners shall
961 continue as if no such suit, action or other proceedings had been brought or taken.
962

963 **Section 604. No Acceleration.** Notwithstanding anything herein to the
964 contrary, the Bonds are not subject to acceleration upon the occurrence of an event of
965 default hereunder.
966

967 **ARTICLE VII**

968 **DEFEASANCE**

969
970
971 **Section 701. Defeasance.** When any or all of the Bonds or scheduled interest
972 payments thereon have been paid and discharged, then the requirements contained in
973 this Ordinance and all other rights granted hereby shall terminate with respect to the
974 Bonds or scheduled interest payments thereon so paid and discharged. Bonds or
975 scheduled interest payments thereon shall be deemed to have been paid and
976 discharged within the meaning of this Ordinance if there has been deposited with the
977 Paying Agent, or other commercial bank or trust company having full trust powers, at or
978 prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments
979 thereon, in trust for and irrevocably appropriated thereto, moneys and Defeasance
980 Obligations that, together with the interest to be earned on any such Defeasance
981 Obligations, will be sufficient for the payment of the principal of said Bonds and interest
982 accrued to the Stated Maturity or Redemption Date, or if default in such payment has
983 occurred on such date, then to the date of the tender of such payments; provided,
984 however, that if any such Bonds are to be redeemed prior to their Stated Maturity, (1)
985 the City has elected to redeem such Bonds, and (2) either notice of such redemption
986 shall have been given, or the City shall have given irrevocable instructions, or shall have
987 provided for an escrow agent to give irrevocable instructions, to the Paying Agent to

988 give such notice of redemption in compliance with **Section 303** hereof. Any money and
989 Defeasance Obligations that at any time shall be deposited with the Paying Agent or
990 other commercial bank or trust company by or on behalf of the City, for the purpose of
991 paying and discharging any of the Bonds, shall be and are hereby assigned, transferred
992 and set over to the Paying Agent or other bank or trust company in trust for the
993 respective Registered Owners of the Bonds, and such moneys shall be and are hereby
994 irrevocably appropriated to the payment and discharge thereof. All money and
995 Defeasance Obligations deposited with the Paying Agent or other bank or trust
996 company shall be deemed to be deposited in accordance with and subject to all of the
997 provisions of this Ordinance.

998
999 In the event of an advance refunding, the City shall cause to be delivered a
1000 verification report of an independent recognized public accountant verifying the
1001 sufficiency of the amounts on deposit with the Paying Agent or other escrow agent to
1002 provide for payment in full of the Bonds as provided herein.

1003 1004 1005 **ARTICLE VIII**

1006 1007 **MISCELLANEOUS PROVISIONS**

1008 1009 **Section 801. Tax Covenants.**

1010
1011 (a) The City covenants and agrees that (1) it will comply with all applicable
1012 provisions of the Code, including Sections 103 and 141 through 150, necessary to
1013 maintain the exclusion from federal gross income of the interest on the Bonds, and (2) it
1014 will not use or permit the use of any proceeds of Bonds or any other funds of the City, nor
1015 take or permit any other action, or fail to take any action, that would adversely affect the
1016 exclusion from federal gross income of the interest on the Bonds. The City will also adopt
1017 such other ordinances and take such other actions as may be necessary to comply with
1018 the Code and with other applicable future laws, regulations, published rulings and judicial
1019 decisions, to the extent any such actions can be taken by the City, in order to ensure that
1020 the interest on the Bonds will remain excluded from federal gross income. The City
1021 covenants and agrees that it will not take any action or permit any action to be taken or
1022 omit to take any action or permit the omission of any action reasonably within its control
1023 that will cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of
1024 the Code, or that will cause the Bonds to be subject to treatment under Section 141 of
1025 the Code as “private activity bonds.”

1026
1027 (b) The City covenants and agrees that (1) it will use the proceeds of the Bonds
1028 as soon as practicable and with all reasonable dispatch for the purposes for which the
1029 Bonds are issued, and (2) it will not invest or directly or indirectly use or permit the use of
1030 any proceeds of the Bonds or any other funds of the City in any manner, or take or omit to
1031 take any action, that would cause the Bonds to be “arbitrage bonds” within the meaning of
1032 Section 148(a) of the Code. The City covenants and agrees that it will pay or provide for
1033 the payment from time to time of all rebatable arbitrage to the United States pursuant to
1034 Section 148(f) of the Code and the Arbitrage Instructions. This covenant shall survive
1035 payment in full or defeasance of the Bonds. The Arbitrage Instructions may be

1036 amended or replaced if, in the opinion of Bond Counsel nationally recognized on the
1037 subject of municipal bonds, such amendment or replacement will not adversely affect
1038 the federal income tax status of the Bonds.
1039

1040 (c) The covenants contained in this Section and in the Federal Tax Certificate
1041 shall remain in full force and effect notwithstanding the defeasance of the Bonds
1042 pursuant to **Article VII** hereof or any other provision of this Ordinance until the final
1043 maturity date of all Bonds Outstanding.
1044

1045 **Section 802. Annual Audit.** Annually, promptly after the end of the Fiscal Year,
1046 the City will cause an audit to be made of its funds and accounts for the preceding
1047 Fiscal Year by an independent public accountant or firm of independent public
1048 accountants.
1049

1050 Within 30 days after the completion of each such audit, a copy thereof shall be
1051 filed in the office of the City Clerk, and a duplicate copy of the audit shall be mailed to
1052 the Lender. Such audits shall at all times during the usual business hours be open to
1053 the examination and inspection by any Registered Owner of any of the Bonds, or by
1054 anyone acting for or on behalf of such Registered Owner.
1055

1056 As soon as possible after the completion of the annual audit, the City Council
1057 shall review such audit, and if the audit discloses that proper provision has not been
1058 made for all of the requirements of this Ordinance, the City shall, subject to **Section 401**
1059 hereof, promptly cure such deficiency.
1060

1061 **Section 803. Amendments.** The rights and duties of the City and the
1062 Bondowners, and the terms and provisions of the Bonds or of this Ordinance, may be
1063 amended or modified at any time in any respect by ordinance of the City with the written
1064 consent of the Registered Owners of not less than a majority in principal amount of the
1065 Bonds then Outstanding, such consent to be evidenced by an instrument or instruments
1066 executed by such Registered Owners and duly acknowledged or proved in the manner
1067 of a deed to be recorded, and such instrument or instruments shall be filed with the City
1068 Clerk, but no such modification or alteration shall:
1069

1070 (a) extend the maturity of any payment of principal or interest due upon
1071 any Bond;
1072

1073 (b) effect a reduction in the amount that the City is required to pay as
1074 principal of or interest on any Bond;
1075

1076 (c) permit preference or priority of any Bond over any other Bond; or
1077

1078 (d) reduce the percentage in principal amount of Bonds required for the
1079 written consent to any modification or alteration of the provisions of this
1080 Ordinance.
1081

1082 Any provision of the Bonds or of this Ordinance may, however, be amended or
1083 modified by ordinance duly adopted by the City Council at any time in any legal respect

1084 with the written consent of the Registered Owners of all of the Bonds at the time
1085 Outstanding.

1086
1087 Without notice to or the consent of any Bondowners, the City may amend or
1088 supplement this Ordinance for the purpose of curing any formal defect, omission,
1089 inconsistency or ambiguity therein, or in connection with any other change therein that
1090 is not materially adverse to the security of the Bondowners.

1091
1092 Every amendment or modification of the provisions of the Bonds or of this
1093 Ordinance to which the written consent of the Bondowners is given, as above provided,
1094 shall be expressed in an ordinance adopted by the City Council amending or
1095 supplementing the provisions of this Ordinance and shall be deemed to be a part of this
1096 Ordinance. A certified copy of every such amendatory or supplemental Ordinance, if
1097 any, and a certified copy of this Ordinance shall always be kept on file in the office of
1098 the City Clerk, shall be made available for inspection by the Registered Owner of any
1099 Bond or a prospective purchaser or owner of any Bond authorized by this Ordinance,
1100 and upon payment of the reasonable cost of preparing the same, a certified copy of any
1101 such amendatory or supplemental Ordinance or of this Ordinance will be sent by the
1102 City Clerk to any such Bondowner or prospective Bondowner.

1103
1104 Any and all modifications made in the manner hereinabove provided shall not
1105 become effective until there has been filed with the City Clerk a copy of the ordinance of
1106 the City hereinabove provided for, duly certified, as well as proof of any required
1107 consent to such modification by the Registered Owners of the Bonds then Outstanding.
1108 It shall not be necessary to note on any of the Outstanding Bonds any reference to
1109 such amendment or modification.

1110
1111 The City shall furnish to the Paying Agent a copy of any amendment to the
1112 Bonds or this Ordinance that affects the duties or obligations of the Paying Agent under
1113 this Ordinance.

1114
1115 **Section 804. Notices, Consents and Other Instruments by Bondowners.**

1116 Any notice, consent, request, direction, approval or other instrument to be signed and
1117 executed by the Bondowners may be in any number of concurrent writings of similar
1118 tenor and may be signed or executed by such Bondowners in person or by agent
1119 appointed in writing. Proof of the execution of any such instrument or of the writing
1120 appointing any such agent and of the ownership of Bonds, other than the assignment of
1121 the ownership of a Bond, if made in the following manner, shall be sufficient for any of
1122 the purposes of this Ordinance, and shall be conclusive in favor of the City and the
1123 Paying Agent with regard to any action taken, suffered or omitted under any such
1124 instrument, namely:

1125
1126 (a) The fact and date of the execution by any person of any such
1127 instrument may be proved by a certificate of any officer in any jurisdiction who by
1128 law has power to take acknowledgments within such jurisdiction that the person
1129 signing such instrument acknowledged before such officer the execution thereof,
1130 or by affidavit of any witness to such execution.

1131

1132 (b) The fact of ownership of Bonds, the amount or amounts, numbers
1133 and other identification of Bonds, and the date of holding the same shall be
1134 proved by the Bond Register.
1135

1136 In determining whether the Registered Owners of the requisite principal amount
1137 of Bonds Outstanding have given any request, demand, authorization, direction, notice,
1138 consent or waiver under this Ordinance, Bonds owned by the City shall be disregarded
1139 and deemed not to be Outstanding under this Ordinance, except that, in determining
1140 whether the Bondowners shall be protected in relying upon any such request, demand,
1141 authorization, direction, notice, consent or waiver, only Bonds that the Bondowners
1142 know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so
1143 owned that have been pledged in good faith shall not be disregarded as aforesaid if the
1144 pledgee establishes to the satisfaction of the Bondowners the pledgee's right so to act
1145 with respect to such Bonds and that the pledgee is not the City.
1146

1147 **Section 805. Further Authority.** The officers of the City, including the Mayor, the
1148 City Administrator, Assistant City Administrator, Finance Director and City Clerk, are
1149 hereby authorized and directed to execute all documents and take such actions as they
1150 may deem necessary or advisable in order to carry out and perform the purposes of this
1151 Ordinance and to make ministerial alterations, changes or additions in the foregoing
1152 agreements, statements, instruments and other documents herein approved, authorized
1153 and confirmed that they may approve, and the execution or taking of such action shall be
1154 conclusive evidence of such necessity or advisability.
1155

1156 **Section 806. Severability.** If any section or other part of this Ordinance, whether
1157 large or small, is for any reason held invalid, the invalidity thereof shall not affect the
1158 validity of the other provisions of this Ordinance.
1159

1160 **Section 807. Governing Law.** This Ordinance shall be governed exclusively by
1161 and construed in accordance with the applicable laws of the State of Missouri.
1162

1163 **Section 808. Effective Date.** T This Ordinance shall be in full force and effect
1164 from and after its final passage by the City Council and after its approval by the Mayor,
1165 subject to the provisions of section 3.11(g) of the City Charter.
1166

1167 **Section 809. Electronic Transaction.** The transaction described herein may be
1168 conducted and related documents may be received, delivered or stored by electronic
1169 means. Copies, telecopies, facsimiles, electronic files and other reproductions of
1170 original executed documents shall be deemed to be authentic and valid counterparts of
1171 such original documents for all purposes, including the filing of any claim, action or suit
1172 in the appropriate court of law.
1173

1174 **Section 810. Loan.** The City hereby acknowledges that the Lender is
1175 purchasing the Bonds as evidence of a privately negotiated loan. Therefore, the City
1176 will not take any affirmative action to cause the Bonds to be (a) assigned a separate
1177 rating by any municipal securities rating agency, (b) registered with The Depository
1178 Trust Company or any other securities depository, (c) issued pursuant to any type of

1179 offering document or official statement or (d) assigned a CUSIP number by Standard &
1180 Poor's CUSIP Service.

1181
1182 **Section 811. Role of Lender.** The City hereby acknowledges that the Lender
1183 and its representatives are not registered municipal advisors and do not provide advice
1184 to municipal entities or obligated persons with respect to municipal financial products or
1185 the issuance of municipal securities (including regarding the structure, timing, terms and
1186 similar matters concerning municipal financial products or municipal securities
1187 issuances) or engage in the solicitation of municipal entities or obligated persons for the
1188 provision by non-affiliated persons of municipal advisory services and/or investment
1189 advisory services. With respect to any information, materials or communications
1190 provided by the Lender, the City acknowledges that: (a) the Lender and its
1191 representatives are not recommending any action to the City; (b) the Lender and its
1192 representatives are not acting as an advisor to the City and do not owe a fiduciary duty
1193 pursuant to Section 15B of the Securities Exchange Act of 1934 to the City with respect
1194 to any information, materials or communications; (c) the Lender and its representatives
1195 are acting for their own interests; and (d) the City has been informed that it should
1196 discuss any such information, materials or communications with any and all internal and
1197 external advisors and experts that the City deems appropriate before acting on any
1198 such information, materials or communications.

1199

1200

1201 **ADOPTED BY THE COUNCIL THIS _____ DAY OF _____ 2022.**

1202

1203

ATTEST:

1204

1205

1206 _____
PRESIDING OFFICER

1206 _____
CITY CLERK

1207

1208

1209 **APPROVED BY THE MAYOR THIS _____ DAY OF _____ 2022.**

1210

1211

ATTEST:

1212

1213

1214 _____
MAYOR

1214 _____
CITY CLERK

1215

1216

1217 **APPROVED AS TO FORM:**

1218

1219

1220 _____
CITY ATTORNEY

**EXHIBIT A
TO ORDINANCE**

(FORM OF BONDS)

THIS BOND MAY ONLY BE TRANSFERRED IN ACCORDANCE WITH THE RESTRICTIONS APPLICABLE TO TRANSFERS OF THE BOND PROVIDED IN THE ORDINANCE AND THIS BOND.

**UNITED STATES OF AMERICA
STATE OF MISSOURI**

**Registered
No. _____**

**Registered
\$ _____**

**CITY OF NIXA, MISSOURI
SPECIAL OBLIGATION BOND
SERIES 2022A**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Dated Date</u>
3.86%, subject to adjustment	June 1, 2032	October 13, 2022

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ DOLLARS

CITY OF NIXA, MISSOURI, a constitutional charter city and political subdivision of the State of Missouri (the "City"), for value received, hereby acknowledges itself to be indebted and promises to pay to the registered owner shown above, or registered assigns, the principal amount shown above on the maturity date shown above unless called for redemption prior to said maturity date, and to pay interest thereon at the interest rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months) from the Dated Date shown above or from the most recent interest payment date to which interest has been paid or duly provided for, payable semiannually on June 1 and December 1 in each year, beginning on June 1, 2023, until said principal amount has been paid. Following a Determination of Taxability, and notwithstanding any other provision hereof to the contrary, the interest rate on the Bonds shall bear interest at the Taxable Rate.

The principal or redemption price of this Bond shall be paid at maturity or upon earlier redemption by check or draft to the person in whose name this Bond is registered at the maturity or redemption date thereof, upon presentation and surrender of this Bond at the payment office of the City's finance director (the "Paying Agent"); provided, however, no presentment and surrender of any Bond shall be required for the payment under the Ordinance provided that all of the Bonds then Outstanding are then held by a single Registered Owner. The principal or Redemption Price of the Bonds shall be paid other than at Maturity to the Person in whose name the Bonds are registered on the Bond Register on the Record Date thereof by check or draft or electronic transfer as described herein for the payment of interest. Upon payment other than at Maturity without presentation of this Bond, the Paying Agent shall record the amount of such principal payment on the registration books for the Bonds maintained by the Paying Agent on behalf of the City. If this Bond is presented to the Paying Agent for such payment, the Paying Agent shall also record the amount of such principal payment on the registration books for the Bonds maintained by the Paying Agent on behalf of the City. The registration books maintained by the Paying Agent shall be the official record of the principal amount on this Bond at any time, and the Bondowner is not required to present this Bond for action by the Paying Agent with each payment of principal on the Bond other than for payments at Maturity. The records of the Paying Agent related to the principal amount Outstanding from time to time shall be conclusive, absent manifest error. Notwithstanding anything contained herein this Bond shall only need to be presented for payment upon final maturity or redemption in full.

The principal of and interest on this Bond payable on any Bond Payment Date may be paid to the person in whose name this Bond is registered on the Bond Register at the close of business on the Record Date by electronic transfer to such registered owner upon written notice given to the Paying Agent signed by such registered owner not less than 5 days prior to the Record Date, and containing the electronic transfer instructions including the bank (which shall be in the continental United States), ABA routing number, address and account name and account number to which such Registered Owner wishes to have such transfer directed and an acknowledgment that an electronic transfer fee is payable. The principal or redemption price of and interest on the Bonds shall be payable by check or draft in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

This Bond is one of an authorized series of bonds of the City designated "Special Obligation Bonds Series 2022A," aggregating the principal amount of \$3,085,000 (the "Bonds"), issued by the City for the purpose of paying the costs of the Project and paying the costs of issuance of the Bonds, under the authority of and in full compliance with the constitution and laws of the State of Missouri, and pursuant to an ordinance duly passed (the "Ordinance") and proceedings duly and legally had by the governing body of the City.

At the option of the City, Bonds may be called for redemption and payment prior to maturity in whole, but not in part, at any time at the Redemption Price equal to: (1) 103% of the principal amount then outstanding, plus accrued interest thereon to the Redemption Date, if redeemed prior to the first anniversary of the Closing Date, (2) 102% of the principal amount then outstanding, plus accrued interest thereon to the Redemption Date, if redeemed on or after the first anniversary of the Closing Date but prior to the second anniversary of the Closing Date, and (3) 101% of the principal amount then outstanding, plus accrued interest thereon to the Redemption Date, if redeemed on or after the second anniversary of the Closing Date but prior to maturity. Notwithstanding the prior sentence, the Bonds may be called for redemption and payment prior to maturity in whole, but not in part, at any time at the Redemption Price equal to 100% of the principal amount then outstanding, plus accrued interest thereon to the Redemption Date, if the City is using funds other than proceeds of a grant or an actual or anticipated refunding of the Bonds.

The Bonds will be subject to mandatory redemption and payment prior to maturity pursuant to the mandatory redemption requirements set forth in the Ordinance at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date.

Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof and in a manner so that the Bonds remain outstanding in authorized denominations. When less than all of the Outstanding Bonds are to be redeemed, such Bonds shall be selected by the Paying Agent in \$5,000 units of principal amount by lot or in such other equitable manner as the Paying Agent may determine and in a manner so that the Bonds remain outstanding in authorized denominations.

Notice of redemption, unless waived, is to be given by the Paying Agent by mailing an official redemption notice by first class mail at least 20 days prior to the redemption date to each registered owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register maintained by the Paying Agent. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City defaults in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

The Bonds shall be special obligations of the City payable as to both principal and interest solely from annual appropriations of funds by the City for such purpose. The obligation of the City to make payments into the Debt Service Fund and for any other obligations of the City under the Ordinance do not constitute a general obligation or indebtedness of the City for which the City is obligated to levy or pledge any form of taxation, or for which the City has levied or pledged any form of taxation and shall not be construed to be a debt of the City in contravention of any applicable constitutional, statutory or charter limitation or restriction but in each Fiscal Year shall be payable solely from the amounts pledged or appropriated therefor (i) out of the income and

revenues provided for such year plus (ii) any unencumbered balances for previous years.

The Bonds are issuable in the form of fully registered Bonds without coupons in the denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof or, if the Outstanding principal amount of the Bonds is less than \$100,000, an amount equal to the Outstanding principal amount of the Bonds.

This Bond may be transferred or exchanged, as provided in the Ordinance, only on the Bond Register upon surrender of this Bond together with a written instrument of transfer or exchange satisfactory to the Paying Agent duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any authorized denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Ordinance and upon payment of the charges therein prescribed. The City and the Paying Agent may deem and treat the person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The registered owner of the Bonds shall have the right at any time to assign, transfer or convey Bonds or any interest therein or portion thereof, but no such assignment, transfer or conveyance shall be effective as against the City unless and until such registered owner has delivered to the City and the Paying Agent written notice thereof that discloses the name and address of the assignee, such assignment, transfer or conveyance shall be made only to (i) an affiliate of the registered owner, (ii) an "accredited investor" under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, or (iii) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933, and the transferee signs a letter substantially in the form of the restriction transfer letter attached to the Ordinance. Nothing herein shall limit the right of the registered owner or its assignees to sell or assign the Bonds to one or more entities listed in (i), (ii) or (iii).

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the Certificate of Authentication hereon has been executed by the Paying Agent.

IT IS HEREBY DECLARED AND CERTIFIED that all acts, conditions and things required to be done and to exist precedent to and in the issuance of the Bonds have been done and performed and do exist in due and regular form and manner as required by the constitution and laws of the State of Missouri.

IN WITNESS WHEREOF, CITY OF NIXA, MISSOURI, has caused this Bond to be executed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk and its official seal to be affixed or imprinted hereon.

CERTIFICATE OF AUTHENTICATION

CITY OF NIXA, MISSOURI

This Bond is one of the Bonds of the issue described in the within-mentioned Ordinance.

By: _____
Mayor

Registration Date: _____

(Seal)

PAYING AGENT

ATTEST:

By _____
Finance Director

City Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Print or Type Name, Address and Social Security Number
or other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ agent to transfer the within Bond on the books kept by the Paying Agent for the registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular.

Medallion Signature Guarantee:

LEGAL OPINION

The following is a true and correct copy of the approving legal opinion of Gilmore & Bell, P.C., Bond Counsel, which was dated and issued as of the date of original issuance and delivery of the Bonds:

GILMORE & BELL
A Professional Corporation
2405 Grand Blvd, Suite 1100
Kansas City, Missouri 64108

(LEGAL OPINION OF BOND COUNSEL)

**EXHIBIT B
TO ORDINANCE**

DESCRIPTION OF PROJECT

The Project includes the purchase of the Rex Deffenderfer Enterprises, Inc. Water System and making additional improvements to the system.

**EXHIBIT C
TO ORDINANCE**

**\$3,085,000
CITY OF NIXA, MISSOURI
SPECIAL OBLIGATION BONDS
SERIES 2022A**

October 11, 2022

LENDER AGREEMENT

City of Nixa, Missouri
715 W. Mt. Vernon
P.O. Box 395
Nixa, Missouri 65714

Ladies and Gentlemen:

The undersigned, Clayton Holdings, LLC (the "Lender"), hereby offers to make a loan pursuant to the City of Nixa, Missouri (the "City") \$3,085,000 aggregate principal amount of Special Obligation Bonds, Series 2022A (the "Bonds") to be issued by the City under and pursuant to an ordinance adopted by the City Council on October 11, 2022 (the "Bond Ordinance"). The words and terms used herein shall have the respective meanings ascribed to them in the Bond Ordinance unless some other meaning is plainly indicated.

The City is a constitutional charter city and political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri. The City desires to finance the costs of certain capital improvements and equipment as described in the Bond Ordinance (the "Project"), and the City is authorized under the provisions of the Constitution of Missouri and its Charter to issue and sell special obligation bonds for the purpose of providing funds to finance the Project, and to provide that the principal of and interest on such special obligations bonds shall be payable solely from amounts appropriated on an annual basis by the City Council.

The Bonds shall be special obligations of the City payable as to both principal and interest solely from annual appropriations of funds by the City for such purpose to be deposited in the Debt Service Fund. The obligation of the City to make payments into the Debt Service Fund and for any other obligations of the City under the Bond Ordinance do not constitute a general obligation or indebtedness of the City for which the City is obligated to levy or pledge any form of taxation, or for which the City has levied or pledged any form of taxation and shall not be construed to be a debt of the City in contravention of any applicable constitutional, statutory or charter limitation or restriction but in each Fiscal Year shall be payable solely from the amounts pledged or appropriated therefor (i) out of the income and revenues provided for such year, plus (ii) any unencumbered balances for previous years. Subject to the preceding sentence, the obligations of the City to make payments hereunder and to perform and observe any other covenant and agreement contained herein shall be absolute and unconditional.

The Bonds shall bear interest, shall be subject to redemption and shall be subject to certain other terms in **Schedule I** hereto.

This offer is made subject to your acceptance of this Lender Agreement on or before 10:00 p.m., Kansas City, Missouri time, on October 11, 2022. Upon your acceptance of the offer, the following agreement will be binding upon you and the Lender.

The words "Transaction Documents" when used herein shall mean, individually and collectively, the following: the Bonds; the Bond Ordinance; this Lender Agreement; the Federal Tax Certificate and any and all other documents or instruments that evidence or are a part of the transactions referred to herein or contemplated hereby; provided, however, that when the words "Transaction Documents" are used in the context of the authorization, execution, delivery, approval or performance of Transaction Documents by a party hereto, the same shall mean only those Transaction Documents that provide for or contemplate authorization, execution, delivery, approval or performance by such party.

1. **Loan.** Upon the terms and conditions and upon the basis of the respective representations, warranties and covenants hereinafter set forth, the Lender hereby agrees to make a loan by its purchase from the City, and the City hereby agrees to sell and obtain a loan from the Lender, pursuant to the sale of all (but not less than all) of the Bonds at a purchase price of \$3,085,000, equal to the principal amount of the Bonds.

2. **Private Placement.** The Lender is purchasing the Bonds for its own account as a loan and has no present intention of distributing or selling the Bonds or any portion thereof or any interest therein. The Lender represents as of the date hereof, and at or prior to the Closing, the Lender will deliver to the City a certificate that shall certify the following:

(a) Lender has full power and authority to carry on its business as now conducted and make the representations and certifications contained herein.

(b) Lender is a lender that regularly extends credit by purchasing loans in the form of state and local government obligations such as the Bonds; has knowledge and experience in financial and business matters that make it capable of evaluating the City, the Bonds and the risks associated with the purchase of the Bonds; has the ability to bear the economic risk of extending the credit evidenced by the Bonds; and is a Missouri limited liability company engaged in the business of extending credit and making loans to state and local governments and non-profit entities and has total assets in excess of \$100,000,000. Lender is not acting as a broker, dealer, municipal securities underwriter, municipal advisor or fiduciary in connection with its purchase of the Bonds.

(c) Lender has conducted its own investigation of the financial condition of the City, the purpose for which the Bonds is being executed and delivered and of the security for the payment of the principal of and interest on the Bonds, and has obtained such information regarding the Bonds and the City and its operations, financial condition and financial prospects as the Lender deems necessary to make an informed investment decision with respect to the purchase of the Bonds.

(d) Lender is purchasing the Bonds as a vehicle for making a commercial loan for its own loan account and without any present intention of distributing or selling any interest therein or portion thereof, provided that Lender retains the right at any time to dispose of the Bonds or any interest therein or portion thereof, but agrees that any such sale, transfer or distribution by Lender

shall be made in accordance with applicable law and the provisions of the Bonds and related documents to:

- (i) an affiliate of Lender; or
- (ii) an “accredited investor” under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, or
- (iii) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933.

(e) Lender acknowledges that the Bonds: (i) have not been registered under the Securities Act of 1933, as amended, and have not been registered or otherwise qualified for sale under the securities laws of any state, (ii) will not be listed on any securities exchange and (iii) there is no established market for the Bonds and that none is likely to develop. Lender understands and acknowledges that: (i) its purchase of the Bonds is not intended to be subject to the requirements of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended and (ii) in connection with its purchase of the Bonds, the City has not prepared or caused to be prepared, any official statement, private placement memorandum or other offering document.

(f) Lender is acting solely for its own loan account and not as a fiduciary for the City or in the capacity of broker, dealer, placement agent, municipal securities underwriter, municipal advisor or fiduciary. It has not provided, and will not provide, financial, legal (including securities law), tax, accounting or other advice to or on behalf of the City (including to any Municipal Advisor or any placement agent engaged by the City) with respect to the structuring, issuance, sale or delivery of the Bonds. Lender has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to the City with respect to the transactions relating to the structuring, issuance, sale or delivery of the Bonds and the discussions, undertakings and procedures leading thereto. Each of the City, its Municipal Advisor and any placement agent has sought and shall seek and obtain financial, legal (including securities law), tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters and compliance with legal requirements applicable to such parties) with respect to the Bonds from its own financial, legal, tax and other advisors (and not from the undersigned or its affiliates) to the extent that the City, its Municipal Advisor or any placement agent desires, should or needs to obtain such advice. The undersigned expresses no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, including but not limited to the City’s Municipal Advisor or any placement agent, or the correctness of any legal interpretation made by counsel to any other party, including but not limited to counsel to the City’s Municipal Advisor or any placement agent, with respect to any such matters. The transactions between the City and Lender are arm’s length, commercial transactions in which Lender is acting and has acted solely as a principal and for its own interest and Lender has not made recommendations to the City with respect to the transactions relating to the Bonds.

3. **City's Representations and Warranties.** The City hereby represents and warrants to the Lender that:

(a) The City is and will be at Closing a body corporate and political subdivision of the State of Missouri created and existing under the laws of the State of Missouri, with the power and authority set forth in the Act.

(b) The City is authorized by the laws of the State of Missouri, including particularly the Act, (i) to issue, sell and deliver the Bonds for the purposes set forth in the opening paragraphs hereof and in the Bond Ordinance and (ii) to enter into and perform its obligations under this Lender Agreement and the Bond Ordinance.

(c) The City has full power and authority to consummate the transactions contemplated by the Transaction Documents and has duly authorized and approved the execution and delivery of this Lender Agreement.

(d) Prior to the Closing, the City shall have duly authorized all necessary action to be taken by it for: (i) the issuance and sale of the Bonds upon the terms set forth herein and (ii) the approval, execution, delivery and receipt by the City of the Transaction Documents and any and all such other agreements and documents as may be required to be executed, delivered and received by the City in order to carry out, give effect to, and consummate the transactions contemplated hereby.

(e) The Bonds when executed, issued, authenticated, delivered and paid for as herein and in the Bond Ordinance provided and the Transaction Documents to which the City is a party when executed will have been duly authorized and issued and will constitute valid and binding obligations of the City enforceable in accordance with their terms (subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other similar law or laws affecting the enforcement of creditors' rights generally or against municipal corporations such as the City from time to time in effect and further subject to the availability of equitable remedies).

(f) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body, pending or, to the knowledge of the City, threatened against the City wherein an unfavorable decision, ruling or finding would materially adversely affect (i) the transactions contemplated hereby, (ii) the validity or enforceability in accordance with their respective terms of the Bonds, the Bond Ordinance, this Lender Agreement or any agreement or instrument to which the City is a party, used or contemplated for use in the consummation of the transactions contemplated hereby, (iii) the exclusion of the interest on the Bonds from gross income for purposes of federal income taxation, (iv) the existence or powers of the City, or (v) the financial condition of the City.

(g) The execution and delivery by the City of this Lender Agreement, the Bonds, the Bond Ordinance and the other documents contemplated hereby to be executed and delivered by the City, and compliance with the provisions thereof do not conflict with or constitute on the part of the City a breach of or a default under any existing law, court or administrative regulation, decree, order, agreement, indenture, mortgage or lease by which the City is or may be bound.

(h) Any certificate signed by an authorized officer of the City and delivered to the Lender shall be deemed a representation and warranty by the City to the Lender as to the statements made therein.

(i) All authorizations, approvals, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction that are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect, the issuance of the Bonds or the due performance by the City of its obligations under the Act, the Transaction Documents and the Bonds have been duly obtained or will be obtained prior to the Closing.

(j) The information with respect to the City provided by the City to the Lender is and, as of the date of Closing, will be true and correct in all material respects.

4. ***The Lender's Representations and Warranties.*** The Lender hereby agrees with, and makes the following representations and warranties to, the City, as of the date hereof and as of the Closing Date, which representations and warranties shall survive the Closing:

(a) The Lender is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization.

(b) This Lender Agreement has been duly authorized, executed and delivered by the Lender and, assuming the due authorization, execution and delivery by the City, is the legal, valid and binding obligation of the Lender enforceable in accordance with its terms, except as the enforceability of this Lender Agreement may be limited by application of creditors' rights laws.

Lender acknowledges that no CUSIP numbers will be assigned to the Bonds and that the Bonds will not be registered under the Securities Act of 1933, as amended (the "1933 Act") or any applicable state securities law, and that the Bonds will be transferrable only as set forth in the Bond Ordinance.

5. ***Closing.*** Prior to or at 12:00 noon, Kansas City, Missouri time, on October 13, 2022 (the "Closing Date"), or at such other time or such other date as shall have been mutually agreed upon by the City and the Lender (the "Closing Time"), the City will deliver, or cause to be delivered, to the Lender, the Bonds, in definitive form duly executed and authenticated by the Paying Agent, together with the other documents hereinafter mentioned; and the Lender will accept such delivery and pay the purchase price of the Bonds by delivery to the City by electronic transfer of funds immediately available in Kansas City, Missouri in an amount equal to the purchase price.

Such payment and delivery is herein called the "Closing." The Bonds will be delivered in denominations as set forth in the Bond Ordinance as definitive Bonds in fully registered form.

6. ***Events Permitting Lender To Terminate.*** (a) The Lender shall have the right to cancel its obligations to purchase the Bonds if between the date hereof and the date of the Closing, (i)(A) legislation shall be enacted or be actively considered for enactment by the Congress, or recommended to the Congress for passage by the President of the United States, or favorably reported for passage to either House of the Congress by any committee of such House to which such legislation has been referred for consideration, or (B) a decision by a Federal court of the United States or the United States Tax Court shall be rendered, or a ruling

or regulation by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency shall be made with respect to the Federal taxation upon interest on the Bonds, or (C) other action or events shall have occurred or transpired, any of the foregoing of which has the purpose or effect, directly or indirectly, of adversely affecting the Federal income tax consequences of any of the transactions contemplated in connection herewith, or (ii) legislation shall be enacted, or actively considered for enactment by the Congress, with an effective date on or prior to the date of Closing, or a decision by a court of the United States shall be rendered, or a ruling or regulation by the Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter shall be made, the effect of which is that the Bonds are not exempt from the registration, qualification or other requirements of the Securities Act of 1933, as amended, and as then in effect, or the Securities Exchange Act of 1934, as amended, and as then in effect, or (iii) a stop order, ruling or regulation by the Securities and Exchange Commission shall be issued or made, the effect of which is that the issuance, offering or sale of the Bonds, as contemplated herein, is in violation of any provision of the Securities Act of 1933, as amended, and as then in effect, the Securities Exchange Act of 1934, as amended, and as then in effect, or the Trust Indenture Act of 1939, as amended, and as then in effect.

The Lender acknowledges that no such event exists as of the date hereof that would permit the Lender to cancel its obligations pursuant to this Lender Agreement.

(b) The City shall have the right to terminate this Lender Agreement if the Bonds are not purchased by the Lender for any reason on or prior to the Closing Time.

7. **Conditions to Closing.** The obligations hereunder of each party hereto shall be subject (i) to the performance by the other party of its obligations to be performed hereunder at and prior to the Closing Time, (ii) to the accuracy in all material respects of the representations and warranties herein of the other party as of the date hereof and as of the Closing Time, and (iii) to the following conditions, including the delivery by the appropriate party or parties hereto or other entities of such documents as are enumerated herein:

(a) At the Closing Time, (i) the Transaction Documents shall have been authorized, executed and delivered, and shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Lender and the City, the Closing in all events, however, to be deemed such approval, (ii) the proceeds of the sale of the Bonds shall have been deposited and applied as described in the Bond Ordinance, (iii) the City shall have duly adopted and there shall be in full force and effect such ordinances as, in the opinion of Gilmore & Bell, P.C., Kansas City, Missouri (herein called "Bond Counsel"), shall be necessary in connection with the transactions contemplated hereby.

(b) At or prior to the Closing Time, the Lender and the City shall have received counterparts, copies or certified copies (as appropriate) of the following documents in such number as shall be reasonably required:

(1) The approving opinion of Bond Counsel, dated the date of Closing, addressed to the City and the Lender, in form and substance satisfactory to the Lender.

(2) A certificate of the City, dated the date of Closing, signed by an official of the City, in form and substance satisfactory to the Lender.

(3) Copies of the executed Transaction Documents.

(4) Other certificates listed on a closing agenda to be approved by counsel to the City, Bond Counsel, and the Lender, including any certificates or representations of the City required in order for Bond Counsel to deliver the opinion referred to in section (b)(1) above.

(5) Such additional legal opinions, certificates, proceedings, instruments and other documents as Bond Counsel, the Lender, or counsel to the City may reasonably request to evidence compliance with all legal requirements, the truth and accuracy, as of the Closing, of the representations herein and the due performance or satisfaction of all agreements then to be performed and all conditions then to be satisfied.

Unless performance is waived by the party or parties for whose benefit a condition or obligation is intended, if any person shall be unable to satisfy the above conditions to the obligations of any party to this Lender Agreement, or if the obligations hereunder of any party shall be terminated for any reason permitted by this Lender Agreement and unless otherwise waived, this Lender Agreement shall terminate and neither the Lender nor the City shall be under further obligation hereunder.

8. **Conditions To City's Obligations.** The obligations of the City hereunder are subject to the performance by the Lender of its obligations hereunder.

9. **Survival of Representations, Warranties and Agreements.** All representations, warranties and agreements of the City and the Lender, respectively, shall remain operative and in full force and effect, regardless of any investigations made by or on behalf of any other party and shall survive the Closing.

10. **Expenses.** If the Bonds are sold to the Lender by the City on or prior to the Closing Time, the City shall pay out of the proceeds of the Bonds the following expenses incident to the performance of its obligations hereunder: (i) the fees of the City's municipal advisor, (ii) the fees of bond counsel, (iii) the fees and expenses of the Lender's counsel in an amount not to exceed \$1,500, and (iv) all other customary costs of issuance.

11. **Third Party Beneficiary.** The City agrees that the Lender is and shall be a third party beneficiary of any and all representations and warranties made by the City in the Transaction Documents, to the same effect as if the City had made such representations and warranties to the Lender in this Lender Agreement.

12. **No Fiduciary Relationship.** The City acknowledges that (a) the transaction contemplated by this Lender Agreement is an arm's length, commercial transaction between the City and the Lender in which the Lender is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the City; (b) the Lender has not assumed any advisory or fiduciary responsibility to the City with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Lender has provided other services or is currently providing other services to the City on other matters); (c) the only obligations the Lender has to the City with respect to the transaction contemplated hereby are expressly set forth in this Lender Agreement; and (d) the City has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to

the extent it has deemed appropriate. The City waives to the full extent permitted by applicable law any claims it may have against the Lender arising from an alleged breach of fiduciary duty in connection with the sale of the Bonds.

In conjunction with (i) an audit or inquiry by the Internal Revenue Service or the Securities and Exchange Commission relating to the pricing of the Bonds, or (ii) the implementation of future regulation or similar guidance from the Internal Revenue Service, the Securities and Exchange Commission or other federal or state regulatory authority regarding the retention of sales data for the Bonds, at the request of the City, the Lender will provide information explaining the factual basis for the Lender's representations in the Lender's Receipt for Bonds and Representation relating to the purchase of the Bonds. This agreement by the Lender to provide such information will continue to apply after the Closing Time but shall not extend to any confidential or proprietary information of the Lender.

13. **Notices.** Any notice or other communication to be given to the City under this Lender Agreement may be given by delivering the same in writing at its address set forth above, and any notice or other communications to be given to the Lender under this Lender Agreement may be given by delivering the same in writing to the Lender at the following addresses:

Clayton Holdings, LLC
Suite 510
8000 Forsyth Blvd
St. Louis, MO 63105
Attn: Beth Blumenthal

14. **Successors.** This Lender Agreement is made for the benefit of the City and the Lender (including the successors or assigns of the Lender) and no other person including any purchaser of the Bonds shall acquire or have any rights hereunder or by virtue hereof.

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

16. **Effectiveness.** This Lender Agreement shall become effective upon acceptance by the City.

17. **Counterparts.** This Lender Agreement may be executed in any number of counterparts, each of which so executed and delivered shall constitute an original and all together shall constitute but one and the same instrument.

18. **Captions.** The captions or headings in this Lender Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or section of this Lender Agreement.

19. **Electronic Transaction.** The transaction described herein may be conducted and this Lender Agreement and related documents may be stored, delivered and received by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed 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.

[remainder of page intentionally left blank]

Very truly yours,

CLAYTON HOLDINGS, LLC

By: _____

Name:

Title:

Accepted and agreed to as of
the date first above written:

CITY OF NIXA, MISSOURI

By: _____
Title: Mayor

Lender Agreement

**SCHEDULE I
TO LENDER AGREEMENT**

MATURITY SCHEDULE

Serial Bonds

<u>Maturity June 1</u>	<u>Principal Amount</u>	<u>Interest Rate*</u>	<u>Price</u>
2032	\$3,085,000	3.86%	100.00%

*Subject to adjustment to the Taxable Rate upon the conditions provided in the Bond Ordinance.

Optional Redemption of Bonds

At the option of the City, Bonds may be called for redemption and payment prior to maturity in whole, but not in part, at any time at the Redemption Price equal to: (1) 103% of the principal amount then outstanding, plus accrued interest thereon to the Redemption Date, if redeemed prior to the first anniversary of the Closing Date, (2) 102% of the principal amount then outstanding, plus accrued interest thereon to the Redemption Date, if redeemed on or after the first anniversary of the Closing Date but prior to the second anniversary of the Closing Date, and (3) 101% of the principal amount then outstanding, plus accrued interest thereon to the Redemption Date, if redeemed on or after the second anniversary of the Closing Date but prior to maturity. Notwithstanding the first sentence, the Bonds may be called for redemption and payment prior to maturity in whole, but not in part, at any time at the Redemption Price equal to 100% of the principal amount then outstanding, plus accrued interest thereon to the Redemption Date, if the City is using funds other than proceeds of a grant or an actual or anticipated refunding of the Bonds.

Mandatory Redemption of Bonds

The Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date. The City shall redeem on June 1 in each year, the following principal amounts of such Bonds:

<u>Year</u>	<u>Principal Amount</u>
2023	\$265,000
2024	280,000
2025	285,000
2026	295,000
2027	300,000
2028	310,000
2029	320,000
2030	330,000
2031	345,000
2032	355,000

**EXHIBIT D
TO ORDINANCE**

TRANSFER RESTRICTION LETTER

City of Nixa, Missouri
715 W. Mt. Vernon
P.O. Box 395
Nixa, Missouri 65714

Re: \$3,085,000 City of Nixa, Missouri Special Obligation Bonds Series 2022A

Ladies and Gentlemen:

The undersigned, Clayton Holdings, LLC. (the “Lender”) hereby represents and warrants to you as follows:

1. The Lender has purchased on the date hereof at the price of par, with no accrued interest, \$3,085,000 in par amount of the above-referenced bonds (the “Bonds”) issued pursuant to an ordinance resolution passed by the City of Nixa, Missouri (the “City”) on October 11, 2022 (the “Ordinance”).

2. The Lender is a Missouri limited liability company with total assets in excess of \$2 billion, engaged in the business of regularly extending credit and making loans to state and local governments and non-profit entities, and, therefore, is a “qualified institutional buyer” as defined in Rule 144A promulgated under the Securities Act of 1933 (the “1933 Act”). Such representation is made solely for the purpose of establishing the sophistication of Lender in evaluating risks and merits of the extension of credit represented by the purchase of the Bonds.

3. The Lender regularly extends credit by purchasing loans in the form of state and local government obligations such as the Bonds. The Lender has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the extension of credit represented by the purchase of the Bonds.

4. The Lender acknowledges that no credit rating has been sought or obtained with respect to the Bonds.

5. The Lender acknowledges that no official statement, prospectus or offering circular containing information with respect to the City, the loan represented by the Bonds (including the security therefor), or the Project has been or will be prepared and that it has made its own inquiry and analysis with respect to the City, the loan represented by the Bonds (including the security therefor), the Project, and the other material factors affecting the security and payment of the loan represented by the

Bonds however, the addressees hereof have been advised that the undersigned has relied upon information and data supplied by and on behalf of the City relating to the City's operations and financial condition.

6. The Lender acknowledges that it has either been supplied with or has had access to all information, including financial statements and other financial information, to which a reasonable commercial lender would attach significance in making credit decisions, and that it has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the City, the loan represented by the Bonds (including the security therefor) and the Project, so that as a reasonable lender it has been able to make its decision to the extension of credit represented by its purchase of the Bonds.

7. The Lender has authority to extend credit through purchase of the Bonds and to execute this letter and any other instruments and documents required to be executed by the Lender in connection with the purchase of the Bonds.

8. The Lender is purchasing the Bonds as a vehicle for making a commercial loan for its own loan account and is not purchasing the Bonds for resale, distribution, or other disposition, and the Lender has no present intention to resell, distribute, or otherwise dispose of the Bonds, but the Lender reserves the right to dispose of the Bonds if in the future the Lender deems it advisable to do so, provided that any such disposition will be made in a manner consistent with applicable securities laws. The Lender recognizes that the loan represented by the Bonds is assignable only in accordance with the requirements of the Ordinance.

9. The Lender understands that the Bonds (i) have not been registered under the Securities Act of 1933, as amended (the "Act"), and (ii) have not been registered or qualified under any state securities or "Blue Sky" laws, and that the Ordinance has not been qualified under the Trust Indenture Act of 1939, as amended.

10. The Lender acknowledges that in connection with the offering of the Bonds: (i) Baker Tilly Municipal Advisor, as Municipal Advisor to the City, has acted at arm's length, is not an agent or financial advisor of, and owes no fiduciary duties to the Lender or any other person irrespective of whether the Municipal Advisor has advised or is advising the Lender on other matters, and (ii) the Lender represents it has had the opportunity to consult with its own legal counsel and to negotiate this Letter prior to execution. The Lender waives to the fullest extent permitted by law any claims it may have against the Municipal Advisor arising from an alleged breach of fiduciary duty in connection with the placement of the Bonds.

11. The Lender understands that the City and the Municipal Advisor, and their respective counsel and Bond Counsel will rely upon the accuracy and truthfulness of the representations and warranties contained herein and hereby consents to such reliance.

12. The representations in this Letter shall not relieve the City from any obligation to disclose any information required by the documents in connection with the issuance of the Bonds or required by applicable law.

13. The signatory of this Letter is a duly authorized officer of the Lender with the authority to sign this Letter on behalf of the Lender, and this Letter has been duly authorized, executed and delivered.

Very truly yours,

Clayton Holdings, LLC

By: _____

Name: _____

Title: _____