

AN ORDINANCE AUTHORIZING THE CITY OF GLADSTONE, MISSOURI, TO ENTER INTO A MASTER EQUIPMENT LEASE PURCHASE AGREEMENT AND SCHEDULES OF EQUIPMENT NO. 1 AND NO. 2 THERETO, WITH CLAYTON HOLDINGS, LLC, TO FINANCE AND REFINANCE CERTAIN EQUIPMENT AND PUBLIC IMPROVEMENTS FOR THE CITY OF GLADSTONE, MISSOURI; AND AUTHORIZING AND APPROVING CERTAIN ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF SAID MASTER EQUIPMENT LEASE PURCHASE AGREEMENT AND SCHEDULES OF EQUIPMENT NO. 1 AND NO. 2.

WHEREAS, the City of Gladstone, Missouri (the "City"), desires to obtain funds to pay the costs of financing and refinancing certain public improvements and equipment (collectively, the "Equipment"); and

WHEREAS, financing the Equipment through a tax-exempt master lease program will allow the City to acquire the Equipment at a favorable interest rate; and

WHEREAS, in order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the City to take the following actions:

1. Enter into a Master Equipment Lease Purchase Agreement, in substantially the form presented to the City Council at this meeting (the "Master Lease") with Clayton Holdings, LLC, the party determined by the City to have submitted the most favorable proposal in response to the City's request (the "Lessor"), pursuant to which the City, as lessee, will from time to time lease certain equipment from the Lessor pursuant to Schedules of Equipment thereto, on a year-to-year basis with an option to purchase the Lessor's interest in such equipment.

2. Enter into Schedule of Equipment No. 1 to the Master Lease, in substantially the form presented to the City Council at this meeting ("Schedule No. 1") with the Lessor, pursuant to which the City, as lessee, will lease certain equipment described therein (the "New Equipment") from the Lessor, on a year-to-year basis with an option to purchase the Lessor's interest in the New Equipment.

3. Enter into Schedule of Equipment No. 2 to the Master Lease, in substantially the form presented to the City Council at this meeting ("Schedule No. 2") with the Lessor, pursuant to which the City, as lessee, will prepay its outstanding Certificates of Participation, Series 2011 (the "Refunded Certificates"), a portion of the proceeds of which were used to finance certain equipment described therein (the "Refinanced Equipment"), and the City, as lessee, will lease the Refinanced Equipment from the Lessor, on a year-to-year basis with an option to purchase the Lessor's interest in the Refinanced Equipment.

4. Enter into an Escrow Agreement related to Schedule No. 1 in substantially the form presented to the City Council at this meeting (the "Schedule No. 1 Escrow Agreement") with the Lessor and the escrow agent to be named therein, pursuant to which the proceeds of Schedule No. 1 will be held in trust by said escrow agent pending their use to purchase the New Equipment financed under Schedule No. 1.

5. Enter into an Escrow Trust Agreement related to Schedule No. 2 in substantially the form presented to the City Council at this meeting (the "Schedule No. 2 Refunding Escrow Agreement") with the Lessor and the refunding escrow agent to be named therein, pursuant to which the proceeds of Schedule No. 2 will be held in trust by said refunding escrow agent to refund the Refunded Certificates.

The Master Lease, Schedule No. 1, Schedule No. 2, the Schedule No. 1 Escrow Agreement and the Schedule No. 2 Refunding Escrow Agreement are referred to collectively herein as the "Lease Documents."

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, as follows:

Section 1. Approval of Lease Documents. The Lease Documents are hereby approved in substantially the forms submitted to and reviewed by the governing body on the date hereof, with such changes therein and final payment terms as shall be approved by the City Manager or Mayor of the City, the City Manager or Mayor's execution thereof to be conclusive evidence of the approval thereof.

The City hereby approves the advance of funds by the Lessor under the Lease Documents in an aggregate principal amount not to exceed \$11,250,000, for the purpose of providing funds, together with other available funds of the City, to (1) prepay the Refunded Certificates, (2) pay costs of new Equipment, and (3) pay certain costs related to the sale and delivery of the Lease Documents and the prepayment of the Refunded Certificates.

The payments under the Lease Documents related to Schedule No. 1 (1) shall bear interest at a rate of 3.38%, (2) shall have a final payment date not later than the year 2032, (3) shall be in an aggregate principal amount not to exceed \$7,200,000, and (4) shall be subject to optional prepayment at a premium not greater than 1% of the amount being prepaid beginning not later than the year 2024 in whole.

The payments under the Lease Documents related to Schedule No. 2 (1) shall bear interest at a rate of 2.340%, (2) shall have a final payment date not later than the year 2023, (3) shall be in an aggregate principal amount not to exceed \$4,050,000, and (4) may not be subject to optional prepayment prior to maturity. The prepayment of the Refunded Certificates shall result in a net present value savings on the prepayment of the Refunded Certificates of at least 1.00% of the principal amount of the Refunded Certificates.

The Mayor or City Manager is hereby authorized and directed to execute and deliver the Lease Documents on behalf of and as the act and deed of the City.

Section 2. No Bank Qualification of Lease. The City will not designate the Lease as a “qualified tax-exempt obligation” under Internal Revenue Code § 265(b)(3).

Section 3. Further Authority. The City shall, and the officials and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments (including without limitation a Federal Tax Certificate), as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Lease Documents and the financing and refinancing of the Equipment.

Section 4. Severability. If any one or more of the terms, provisions or conditions of this ordinance shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, none of the remaining terms, provisions or conditions of this ordinance shall be affected thereby and each provision of this ordinance shall be valid and enforceable to the fullest extent permitted by law.

Section 5. Effective Date. This ordinance shall take effect and be in full force from and after its adoption by the governing body.

PASSED, SIGNED AND MADE EFFECTIVE BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 18th DAY OF DECEMBER, 2017.

By:


R.D. Mallams, Mayor

[SEAL]

ATTEST:


Ruth E. Bocchino, City Clerk

First Reading: December 18, 2017

Second Reading: December 18, 2017



Department of Finance
Memorandum

DATE: December 14, 2017

TO: Scott Wingerson – City Manager

FROM: Dominic Accurso – Interim Director of Finance

RE: 2017 Lease Purchase Agreement

In September, the council passed a Go To Market Resolution to give staff the ability to move forward on a financing package that will fund the construction of Old Pike Road and 76th Street projects (\$2,200,000), the Navitas energy savings project that encompasses improvements to multiple city buildings (\$4,055,000), improvements for city parks (\$700,000), additional improvements to the city's Public Works facility (\$100,000), and the refinancing of the city's Certificates of Participation, Series 2011 (\$4,000,000). Due to unfavorable terms in the recent proposed tax law, and a rising interest rate environment, staff was advised to move quickly with the debt issue.

Earlier this month, a Request for Terms related to the private placement of the debt issue went out to multiple banks for bid. When bids closed on December 7th, staff is recommending placing the debt issue with Clayton Holdings, the institution that submitted the most favorable terms for the City's needs.

With the assistance of the City's Municipal Advisor, Tom Kaleko with Springsted, Underwriter/Placement Agent, Todd Goffoy with Piper Jaffray, and Bond Council, Rick McConnell with Gilmore & Bell, staff is ready to close on the issue. The ordinance that will authorize the city to enter into a master equipment lease purchase agreement with two (2) series will be on the December 18th agenda. The first series will include the construction for the streets and improvements for city facilities and parks. The second series will refinance the 2011 COP issue. Accompanying this memo is the ordinance, Master Equipment Lease Purchase Agreement, the escrow agreement for the two series, and the Schedule of Equipment for the two series. Should you have any questions or concerns, please contact me at your convenience.

MASTER EQUIPMENT LEASE PURCHASE AGREEMENT

BETWEEN

**CLAYTON HOLDINGS, LLC,
As Lessor**

AND

**CITY OF GLADSTONE, MISSOURI,
As Lessee**

Dated: December 22, 2017

TABLE OF CONTENTS

MASTER EQUIPMENT LEASE PURCHASE AGREEMENT

Page

ARTICLE I

DEFINITIONS

Section 1.01.	Definitions	1
---------------	-------------------	---

ARTICLE II

REPRESENTATIONS AND COVENANTS OF LESSEE

Section 2.01.	Representations and Covenants of Lessee	3
Section 2.02.	Conditions to Lessor's Performance under Schedules	5

ARTICLE III

LEASE OF EQUIPMENT

Section 3.01.	Lease of Equipment	5
Section 3.02.	Lease Term.....	5
Section 3.03.	Termination of Lease Term	5
Section 3.04.	Continuation of Lease Term.....	6
Section 3.05.	Nonappropriation	6

ARTICLE IV

RENTAL PAYMENTS

Section 4.01.	Rental Payments	6
Section 4.02.	Interest Component.....	7
Section 4.03.	Rental Payments To Be Unconditional	7
Section 4.04.	Rental Payments to Constitute a Current Expense of Lessee	7

ARTICLE V

EQUIPMENT

Section 5.01.	Delivery and Acceptance of the Equipment	7
Section 5.02.	Enjoyment of Equipment.....	7
Section 5.03.	Right of Inspection	7
Section 5.04.	Use of the Equipment	7
Section 5.05.	Maintenance of Equipment.....	8

ARTICLE VI

TITLE TO EQUIPMENT; SECURITY INTEREST

Section 6.01.	Title to the Equipment	8
Section 6.02.	Security Interest	8
Section 6.03.	Personal Property	8

ARTICLE VII

ADDITIONAL COVENANTS

Section 7.01.	Liens, Taxes, Other Governmental Charges and Utility Charges	9
Section 7.02.	Insurance	9
Section 7.03.	Advances	9
Section 7.04.	Financial Information	9
Section 7.05.	Release and Indemnification	10

ARTICLE VIII

DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 8.01.	Risk of Loss	10
Section 8.02.	Damage, Destruction and Condemnation	10
Section 8.03.	Insufficiency of Net Proceeds	10

ARTICLE IX

WARRANTIES

Section 9.01.	Disclaimer of Warranties	10
Section 9.02.	Vendor's Warranties	11

ARTICLE X

OPTION TO PURCHASE

Section 10.01.	Purchase Option	11
Section 10.02.	Determination of Fair Purchase Price	11

ARTICLE XI

ASSIGNMENT AND SUBLEASING

Section 11.01.	Assignment by Lessor	12
Section 11.02.	Assignment and Subleasing by Lessee	12

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES

Section 12.01.	Events of Default Defined	12
Section 12.02.	Remedies on Default.....	13
Section 12.03.	No Remedy Exclusive	14

ARTICLE XIII

MISCELLANEOUS

Section 13.01.	Notices	14
Section 13.02.	Binding Effect.....	14
Section 13.03.	Severability	14
Section 13.04.	Entire Agreement	14
Section 13.05.	Amendments	15
Section 13.06.	Execution in Counterparts	15
Section 13.07.	Captions	15
Section 13.08.	Applicable Law.....	15
Section 13.09.	Electronic Transactions.....	15
	Signatures	16
	Certificate of City Clerk of Lessee	
	Exhibit A: Form of Schedule of Equipment	A-1
	Exhibit B: Form of Opinion of Lessee's Counsel	B-1
	Exhibit C: Form of Lessee's Closing Certificate	C-1

MASTER EQUIPMENT LEASE PURCHASE AGREEMENT

THIS MASTER EQUIPMENT LEASE PURCHASE AGREEMENT (this Master Equipment Lease Purchase Agreement, including all exhibits and schedules hereto whether currently in existence or hereafter executed, being hereinafter referred to as the "Agreement") dated as of December 22, 2017, between **CLAYTON HOLDINGS, LLC**, a limited liability company duly organized and existing under the laws of the State of Missouri, as Lessor ("Lessor"), and **CITY OF GLADSTONE, MISSOURI**, a city of the third class and political subdivision duly organized and existing pursuant to the laws of the State of Missouri, as Lessee ("Lessee"),

WITNESSETH:

WHEREAS, Lessee desires to lease certain property from Lessor described in the schedules to this Agreement, substantially in the form of **Exhibit A** hereto, that are to be executed from time to time by the parties hereto (such schedules, whether now or hereafter executed, are hereby incorporated herein and are hereinafter collectively referred to as the "Schedules," and the items of property leased to Lessee hereunder, together with all substitutions, proceeds, replacement parts, repairs, additions, attachments, accessories and replacements thereto, thereof or therefor, are hereinafter collectively referred to as the "Equipment") subject to the terms and conditions of and for the purposes set forth in this Agreement; and

WHEREAS, the relationship between the parties shall be a continuing one and items of property may be added to or deleted from the Equipment from time to time by execution of additional Schedules by the parties hereto and as otherwise provided herein; and

WHEREAS, Lessee is authorized under the constitution and laws of the State to enter into this Agreement for the purposes set forth herein;

NOW, THEREFORE, for and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Agreement" means this Master Equipment Lease Purchase Agreement, including the Schedules and any other schedule, exhibit, attachment, acceptance certificate, escrow agreement or tax certificate made a part hereof by the parties hereto, together with any amendments to this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commencement Date" means, with respect to any Schedule, the date when the term of this Agreement with respect to that Schedule and Lessee's obligation to pay rent under that Schedule commence, which date shall be the earlier of (i) the date on which the Equipment listed in that Schedule is accepted by Lessee in the manner described in **Section 5.01**, or (ii) the date on which sufficient moneys to purchase the Equipment listed in that Schedule are deposited for that purpose with an escrow agent.

"Equipment" means the property described in a Schedule and all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto. Whenever reference is made in this Agreement to Equipment listed in a Schedule, that reference shall be deemed to include all replacements, repairs, restorations, modifications and improvements of or to that Equipment.

"Event of Default" means, with respect to any Lease, an Event of Default described in **Section 12.01**.

"Issuance Year" is the calendar year in which the Commencement Date with respect to any Lease occurs.

"Lease" means an individual Schedule and this Agreement.

"Lease Term" means, with respect to any Lease, the Original Term and all Renewal Terms of that Lease, but ending on the occurrence of the earliest event specified in **Section 3.03**.

"Lessee" means the entity described as such in the first paragraph of this Agreement, its successors and its assigns.

"Lessor" means, with respect to each Schedule and the Lease of which that Schedule is a part, (i) if Lessor's interest in, to and under that Schedule has not been assigned pursuant to **Section 11.01**, the entity described as such in the first paragraph of this Agreement or its successor, or (ii) if Lessor's interest in, to and under that Schedule has been assigned pursuant to **Section 11.01**, the assignee thereof or its successor.

"Maximum Lease Term" means, with respect to any Lease, the Original Term and all Renewal Terms through the Renewal Term including the last Rental Payment Date set forth on the Schedule that is part of that Lease.

"Net Proceeds" means the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including attorneys' fees) incurred in the collection of such claim or award.

"Original Term" means, with respect to any Lease, the period from the first Commencement Date for any Schedule under that Lease until the end of the fiscal year of Lessee in effect at that Commencement Date.

"Payment Schedule" means, with respect to any Lease, the schedule of Rental Payments and Purchase Price attached to such Schedule.

"Purchase Price" means, with respect to the Equipment listed on any Schedule, the amount set forth on any Schedule that Lessee may, at its option, pay to Lessor to purchase the Equipment listed on that Schedule.

"Renewal Terms" means, with respect to any Lease, the optional renewal terms of that Lease, each having a duration of one year and a term co-extensive with Lessee's fiscal year.

"Rental Payment Dates" means the dates set forth in the Schedules on which Rental Payments are due.

"Rental Payments" means the basic rental payments payable by Lessee pursuant to **Section 4.01**.

"Schedule" means any schedule of equipment to this Agreement, substantially in the form of **Exhibit A** hereto, executed from time to time by the parties hereto.

"Special Tax Counsel" means Gilmore & Bell, P.C., or other nationally recognized counsel in the area of tax-exempt municipal obligations selected by Lessee, which is acceptable to Lessor.

"State" means the State of Missouri.

"Vendor" means a manufacturer of Equipment as well as the agents or dealers of the manufacturer from whom Lessor purchased or is purchasing Equipment.

ARTICLE II

REPRESENTATIONS AND COVENANTS OF LESSEE

Section 2.01. Representations and Covenants of Lessee. Lessee represents, warrants and covenants for the benefit of Lessor:

(a) Lessee is a city of the third class and political subdivision duly organized and existing under the constitution and laws of the State. Lessee will do or cause to be done all things to preserve and keep in full force and effect its existence as a body corporate and politic. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power.

(b) Lessee is authorized under the constitution and laws of the State to enter into this Agreement and the transaction contemplated hereby and to perform all of its obligations hereunder.

(c) Lessee has been duly authorized to execute and deliver this Agreement by proper action and approval of its governing body at a meeting duly called, regularly convened and attended throughout by a requisite majority of the members thereof or by other appropriate official approval.

(d) This Agreement constitutes the legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.

(e) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof.

(f) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the current fiscal year and to meet its other obligations under this Agreement for the current fiscal year, and such funds have not been expended for other purposes.

(g) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic.

(h) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment hereunder.

(i) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best knowledge of Lessee is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Agreement or any other document, agreement or certificate which is used or contemplated for use in the consummation of the transactions contemplated by this Agreement.

(j) All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Agreement or in connection with the carrying out by Lessee of its obligations hereunder have been obtained.

(k) The entering into and performance of this Agreement or any other document or agreement contemplated hereby to which Lessee is or is to be a party will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance on any assets of Lessee or the Equipment pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided.

(l) During the Lease Term, the Equipment to be acquired under this Agreement will be used only for the purpose of performing essential functions of Lessee or to the service Lessee provides to its citizens. Lessee has an immediate need for the Equipment listed on the Schedules that currently exist and expects to make immediate use of the Equipment listed on the Schedules that currently exist. Lessee's need for the Equipment is not temporary, and Lessee does not expect the need for any item of the Equipment to diminish in the foreseeable future, including the Maximum Lease Term applicable to such item. The Equipment will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of Lessee's authority.

(m) Neither the payment of the Rental Payments hereunder nor any portion thereof is (i) secured by any interest in property used or to be used in a trade or business of a non-exempt person (within the meaning of Section 103 of the Code) or in payments in respect of such property or (ii) derived from payments in respect of property, or borrowed money, used or to be used in a trade or business of a non-exempt person (within the meaning of Section 103 of the Code). No portion of the Equipment will be used directly or indirectly in any trade or business carried on by any non-exempt person (within the meaning of Section 103 of the Code).

(n) Lessee will comply with all applicable provisions of the Code, including without limitation Sections 103 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation.

(o) Lessee will use the proceeds of this Agreement as soon as practicable and with all reasonable dispatch for the purpose for which this Agreement has been entered into. No part of the proceeds of this Agreement will be invested in any securities, obligations or other investments or

used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of this Agreement, would have caused any portion of this Agreement to be or become "arbitrage bonds" within the meaning of Section 103(b)(2) or Section 148 of the Code and the applicable regulations of the Treasury Department.

(p) Lessee represents and warrants that it is a governmental unit under the laws of the State with general taxing powers; this Agreement is not a private activity bond as defined in Section 141 of the Code, and 95% or more of the net proceeds of this Agreement will be used for local governmental activities of Lessee.

Section 2.02. Conditions to Lessor's Performance under Schedules. As a prerequisite to the performance by Lessor of any of its obligations pursuant to the execution and delivery of any Schedule, Lessee shall deliver to Lessor the following:

- (a) An Opinion of Counsel to Lessee in substantially the form attached hereto as **Exhibit B** respecting such Schedule and otherwise satisfactory to Lessor.
- (b) A Closing Certificate executed by the Mayor and City Clerk or other comparable officers of Lessee, in substantially the form attached hereto as **Exhibit C** respecting such Schedule and otherwise satisfactory to Lessor.
- (c) All documents, including acceptance certificate, escrow agreement, tax certificate, financing statements, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor or Special Tax Counsel deems necessary or appropriate at that time pursuant to **Section 7.02**.
- (d) Such other items, if any, as are set forth in such Schedule or are reasonably required by Lessor.

ARTICLE III

LEASE OF EQUIPMENT

Section 3.01. Lease of Equipment. Lessor hereby demises, leases and lets to Lessee, and Lessee rents, leases and hires from Lessor, the Equipment in accordance with the provisions of this Agreement and that Schedule, for the Lease Term for the Lease of which that Schedule is a part.

Section 3.02. Lease Term. The Original Term of each Lease will commence on the Commencement Date and will terminate on the last day of Lessee's current fiscal year. The Lease Term for each Lease may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for an additional Renewal Term up to the Maximum Lease Term for that Lease. At the end of the Original Term and at the end of each Renewal Term until the Maximum Lease Term has been completed for a Lease, Lessee will be deemed to have exercised its option to continue this Agreement for the next Renewal Term unless Lessee shall have terminated this Agreement pursuant to **Section 3.03** or **Section 10.01**. The terms and conditions during any Renewal Term will be the same as the terms and conditions during the Original Term, except that the Rental Payments will be as provided in the Payment Schedule.

Section 3.03. Termination of Lease Term. The Lease Term for each Lease will terminate upon the earliest of any of the following events:

(a) the expiration of the Original Term or any Renewal Term of that Lease and the nonrenewal of that Lease in the event of nonappropriation of funds pursuant to **Section 3.05**;

(b) the exercise by Lessee of the option to purchase the Equipment under that Lease granted under the provisions of **Article X** and payment of the Purchase Price and all amounts payable in connection therewith;

(c) a default by Lessee and Lessor's election to terminate that Lease under **Article XII**;
or

(d) the payment by Lessee of all Rental Payments authorized or required to be paid by Lessee under that Lease during the Maximum Lease Term.

Section 3.04. Continuation of Lease Term. Lessee currently intends, subject to the provisions of **Section 3.05** and **Section 4.04**, to continue the Lease Term for each Lease through the Original Term and all of the Renewal Terms and to pay the Rental Payments hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the Maximum Lease Term for each Lease can be obtained. The responsible financial officer of Lessee will do all things lawfully within his or her power to obtain and maintain funds from which the Rental Payments may be made, including making provision for such Rental Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee and to exhaust all available reviews and appeals in the event such portion of the budget is not approved. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend a Lease for any Renewal Term is solely within the discretion of the then current governing body of Lessee.

Section 3.05. Nonappropriation. Lessee is obligated only to pay such Rental Payments under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. In the event sufficient funds will not be appropriated or are not otherwise legally available to pay the Rental Payments required to be paid under a Lease in the next occurring Renewal Term, that Lease will be deemed to be terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination at least 90 days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice will not extend the Lease Term beyond such Original Term or Renewal Term. If a Lease is terminated in accordance with this Section, Lessee agrees, at Lessee's cost and expense, to peaceably deliver the Equipment then subject to that Lease to Lessor at the location or locations specified by Lessor.

ARTICLE IV

RENTAL PAYMENTS

Section 4.01. Rental Payments. Lessee will pay Rental Payments, exclusively from legally available funds, in lawful money of the United States of America to Lessor in the amounts and on the dates set forth in the Payment Schedule. Rental Payments will be in consideration for Lessee's use of the Equipment during the fiscal year in which such payments are due. Any Rental Payment not received on or before its due date will bear interest at the rate of 10% per annum or the maximum amount permitted by law, whichever is less, from its due date.

In the event that it is determined that any of the interest components of Rental Payments may not be excluded from gross income for purposes of federal income taxation, Lessee agrees to pay to Lessor

promptly after any such determination and on each Rental Payment Date thereafter an additional amount determined by Lessor to compensate Lessor for the loss of such excludability (including without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive absent manifest error.

Section 4.02. Interest Component. As set forth on the Payment Schedule attached to each Schedule, a portion of each Rental Payment is paid as, and represents payment of, interest.

Section 4.03. Rental Payments To Be Unconditional. Except as provided in Section 3.05, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained herein shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment to be delivered, any defects, malfunctions, breakdowns or infirmities in the equipment or any accident, condemnation or unforeseen circumstances.

Section 4.04. Rental Payments to Constitute a Current Expense of Lessee. The obligation of Lessee to pay Rental Payments hereunder will constitute a current expense of Lessee, are from year to year and do not constitute a mandatory payment obligation of Lessee in any fiscal year beyond the then current fiscal year of Lessee. Lessee's obligation hereunder will not in any way be construed to be an indebtedness of Lessee in contravention of any applicable constitutional, charter or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor will anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of Lessee.

ARTICLE V

EQUIPMENT

Section 5.01. Delivery and Acceptance of the Equipment. Lessee will order the Equipment, cause the Equipment to be delivered at the locations specified in the applicable Schedule and pay any and all delivery costs in connection therewith. When the Equipment listed in any Schedule has been delivered, Lessee will immediately accept such Equipment and evidence said acceptance by executing and delivering to Lessor an acceptance certificate in form and substance acceptable to Lessor. After it has been accepted, the Equipment will not be moved from the locations specified in the applicable Schedule without Lessor's consent, which consent will not be unreasonably withheld.

Section 5.02. Enjoyment of Equipment. Lessor hereby covenants with Lessee that Lessor shall not interfere with Lessee's quiet use and enjoyment of the Equipment during the Lease Term, and Lessee will peaceably and quietly have and hold and enjoy the Equipment during the Lease Term, without suit, trouble or hindrance from Lessor, except as otherwise expressly set forth in this Agreement.

Section 5.03. Right of Inspection. Lessor will have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

Section 5.04. Use of the Equipment. Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee will obtain all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each item of the Equipment) with all applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body;

provided, however, that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Equipment or its interest or rights under this Agreement.

Section 5.05. Maintenance of Equipment. Lessee agrees that it will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition. Lessor will have no responsibility to maintain, or repair or to make improvements or additions to the Equipment. If requested to do so by Lessor with respect to any item of Equipment, Lessee will enter into a maintenance contract for that Equipment with the applicable Vendor.

ARTICLE VI

TITLE TO EQUIPMENT; SECURITY INTEREST

Section 6.01. Title to the Equipment. During the Lease Term, title to the Equipment that is subject to any Lease and any and all additions, repairs, replacements or modifications will vest in Lessee, subject to the rights of Lessor under this Agreement; provided that title to the Equipment that is subject to any Lease will thereafter immediately and without any action by Lessee vest in Lessor, and Lessee will immediately surrender possession of such Equipment to Lessor upon (a) any termination of that Lease other than termination pursuant to **Section 10.01** or (b) the occurrence of an Event of Default with respect to that Lease. It is the intent of the parties hereto that any transfer of title to Lessor pursuant to this Section will occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee will, nevertheless, execute and deliver any such instruments as Lessor may request to evidence such transfer. Lessee, irrevocably designates, makes, constitutes and appoints Lessor and its assignee as Lessee's true and lawful attorney (and agent in-fact) with power, at such time of termination or times thereafter as Lessor in its sole and absolute discretion may determine, in Lessee's or Lessor's or such assignee's name, to endorse the name of Lessee upon any bill of sale, document, instrument, invoice, freight bill, bill of lading or similar document relating to the Equipment in order to vest title in Lessor and transfer possession to Lessor.

Section 6.02. Security Interest. To secure the payment of all of Lessee's obligations under this Agreement and to the extent permitted by law, Lessor retains a security interest constituting a first lien on the Equipment and on all additions, attachments and accessions thereto and substitutions therefor and proceeds therefrom. Lessee agrees to execute such additional documents in form satisfactory to Lessor, that Lessor deems necessary or appropriate to establish and maintain its security interest. Lessee agrees that financing statements may be filed with respect to the security interest granted herein.

Section 6.03. Personal Property. Lessor and Lessee agree that the Equipment is and will remain personal property. The Equipment will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to such real estate or any building thereon. Upon the request of Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building.

ARTICLE VII

ADDITIONAL COVENANTS

Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee will keep the Equipment free and clear of all liens, charges and encumbrances, except those created under this Agreement. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Equipment will be exempt from all property taxes. If the use, possession or acquisition of the Equipment is found to be subject to taxation in any form, Lessee will pay all taxes and governmental charges lawfully assessed or levied against or with respect to the Equipment. Lessee will pay all utility and other charges incurred in the use and maintenance of the Equipment. Lessee will pay such taxes and charges as the same become due; provided that, with respect to any such taxes and charges that may lawfully be paid in installments over a period of years, Lessee will be obligated to pay only such installments that accrue during the Lease Term.

Section 7.02. Insurance. At its own expense, Lessee will maintain (a) casualty insurance insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any other risks reasonably required by Lessor in an amount at least equal to the then applicable Purchase Price of the Equipment, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor, and (c) workers' compensation coverage as required by the laws of the State; provided that, with Lessor's prior written consent, Lessee may self-insure against the risks described in this Section. All insurance proceeds from casualty losses will be payable as hereinafter provided. Lessee will furnish to Lessor certificates evidencing such coverage throughout the Lease Term.

All such casualty and liability insurance will be with insurers that are acceptable to Lessor, will name Lessee and Lessor as insureds and will contain a provision to the effect that such insurance will not be cancelled or modified materially without first giving written notice thereof to Lessor at least ten days in advance of such cancellation or modification. All such casualty insurance will contain a provision making any losses payable to Lessee and Lessor, as their respective interests may appear.

Section 7.03. Advances. In the event Lessee fails to maintain the insurance required by this Agreement or fails to keep the Equipment in good repair and operating condition, Lessor may (but will be under no obligation to) purchase the required policies of insurance and pay the premiums on the same and make such repairs or replacements as are necessary and pay the cost thereof. All amounts so advanced by Lessor will become additional rent for the then current Original Term or Renewal Term. Lessee agrees to pay such amounts with interest thereon from the date paid at the rate of 10% per annum or the maximum permitted by law, whichever is less. In accordance with Section 427.120 of the Revised Statutes of Missouri, unless Lessee provides evidence of the insurance coverage required by this Agreement, Lessor may purchase insurance at Lessee's expense to protect Lessor's interests hereunder. This insurance may, but need not, protect Lessee's interests. The coverage that Lessor may purchase may not pay any claim that Lessee may make or any claim that may be made against Lessee in connection with the Equipment. Lessee may later cancel any insurance purchased by Lessor, but only after providing evidence that Lessee has obtained insurance as required by this Agreement. If Lessor purchases insurance for the Equipment, Lessee will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges Lessor may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance will be added as additional rent. The costs of the insurance may be more than the cost of insurance Lessee may be able to obtain on its own.

Section 7.04. Financial Information. Lessee will annually provide Lessor with current financial statements, budgets, proofs of appropriation for the ensuing fiscal year and such other financial information relating to the ability of Lessee to continue this Agreement as may be requested by Lessor.

Section 7.05. Release and Indemnification. To the extent permitted by law, Lessee will indemnify, protect and hold harmless Lessor from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith (including, without limitation, counsel fees and expenses and any federal income tax and interest and penalties connected therewith imposed on interest received) arising out of or as the result of (a) the entering into this Agreement, (b) the ownership of any item of the Equipment, (c) the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment, (d) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury or death to any person or (e) the breach of any covenant herein or any material misrepresentation contained herein. The indemnification arising under this paragraph will continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

ARTICLE VIII

DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 8.01. Risk of Loss. Lessee assumes, from and including the Commencement Date, all risk of loss of or damage to the Equipment from any cause whatsoever. No such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof will relieve Lessee of the obligation to make Rental Payments or to perform any other obligation under this Agreement.

Section 8.02. Damage, Destruction and Condemnation. If (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or (b) title to, or the temporary use of, the Equipment or any part thereof or the interest of Lessee or Lessor in the Equipment or any part thereof will be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment, unless Lessee has exercised its option to purchase the Equipment pursuant to **Section 10.01**. Any balance of the Net Proceeds remaining after such work has been completed will be paid to Lessee.

Section 8.03. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in **Section 8.01**, Lessee will either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) purchase Lessor's interest in the Equipment pursuant to **Section 10.01**. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing the Equipment will be retained by Lessee. If Lessee will make any payments pursuant to this Section, Lessee will not be entitled to any reimbursement therefor from Lessor nor will Lessee be entitled to any diminution of the amounts payable under **Article IV**.

ARTICLE IX

WARRANTIES

Section 9.01. Disclaimer of Warranties. *LESSOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR USE OR PURPOSE OF THE*

EQUIPMENT OR AGAINST INFRINGEMENT, OR ANY OTHER WARRANTY OR REPRESENTATION WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY ACTUAL, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEE'S USE OR MAINTENANCE OF ANY EQUIPMENT OR SERVICES PROVIDED FOR IN THIS AGREEMENT.

Section 9.02. Vendor's Warranties. Lessee may have rights under the contract evidencing the purchase of the Equipment; Lessee is advised to contact the applicable Vendor for a description of any such rights. Lessor hereby assigns to Lessee during the Lease Term all warranties running from Vendor to Lessor. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee will not be in default hereunder, to assert from time to time whatever claims and rights (including without limitation warranties) related to the Equipment that Lessor may have against the Vendor. Lessee's sole remedy for the breach of any such warranty, indemnification or representation will be against the Vendor, and not against Lessor. Any such matter will not have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representation or warranties whatsoever as to the existence or availability of such warranties by the Vendor.

ARTICLE X

OPTION TO PURCHASE

Section 10.01. Purchase Option. Lessee will have the option to purchase the Equipment listed in any Schedule, upon giving written notice to Lessor at least 30 days before the date of purchase, at the following times and upon the following terms:

(a) On any Rental Payment Date, as further set forth in any Schedule, upon payment in full of the Rental Payments then due under that Schedule plus the accrued interest component of Rental Payments to the purchase date plus any other amounts then due under that Schedule plus the then applicable Purchase Price set forth on that Schedule to Lessor; or

(b) In the event of substantial damage to or destruction or condemnation (other than by Lessee or any entity controlled by or otherwise affiliated with Lessee) of substantially all of the Equipment listed in that Schedule, on the day Lessee specifies as the purchase date in Lessee's notice to Lessor of its exercise of the purchase option, upon payment in full of the Rental Payments and any other amounts then due under that Schedule plus (i) the Purchase Price set forth on the Payment Schedule for such purchase date if such purchase date is a Rental Payment Date or the Purchase Price for the immediately preceding Rental Payment Date if such purchase date is not a Rental Payment Date, and (ii) if such day is not a Rental Payment Date, an amount equal to the portion of the interest component of the Rental Payment scheduled to come due under that Schedule on the following Rental Payment Date accrued from the immediately preceding Rental Payment Date to such purchase date, computed on the basis of a 360-day year of twelve 30-day months.

Upon the exercise of the option to purchase set forth above, title to the Equipment so purchased will be vested in Lessee, free and clear of any claim by or through Lessor.

Section 10.02. Determination of Fair Purchase Price. Lessee and Lessor hereby agree and determine that the Rental Payments under each Schedule during the Original Term and each Renewal Term represent the fair value of the use of the Equipment listed in that Schedule and that the amount required to

exercise Lessee's option to purchase the Equipment listed in that Schedule pursuant to **Section 10.01** represents, as of the end of the Original Term or any Renewal Term under that Schedule, the fair purchase price of the Equipment listed in that Schedule. Lessee hereby determines that the Rental Payments do not exceed a reasonable amount so as to place Lessee under a practical economic compulsion to renew the term of any Schedule or to exercise its option to purchase the Equipment under any Schedule. In making such determinations, Lessee and Lessor have given consideration to (a) the costs of the Equipment, (b) the uses and purposes for which the Equipment will be employed by Lessee, (c) the benefit to Lessee by reason of the acquisition and installation of the Equipment and the use of the Equipment pursuant to the terms and provisions of this Agreement, and (d) Lessee's option to purchase the Equipment. Lessee hereby determines and declares that the acquisition and installation of the Equipment and the leasing of the Equipment pursuant to this Agreement will result in equipment of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Equipment were performed by Lessee other than pursuant to this Agreement. Lessee hereby determines and declares that the Maximum Lease Term does not exceed the useful life of the Equipment.

ARTICLE XI

ASSIGNMENT AND SUBLEASING

Section 11.01. Assignment by Lessor. Lessor's interest in, to and under this Agreement, each Lease and the Equipment may be assigned and reassigned in whole or in part to one or more assignees by Lessor without the necessity of obtaining the consent of Lessee; provided that any assignment will not be effective until Lessee has received written notice, signed by the assignor, of the name, address and tax identification number of the assignee. Lessee will retain all such notices as a register of all assignees and will make all payments to the assignee or assignees designated in such register. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interest in the Equipment and in this Agreement and each Lease and agrees to the filing of financing statements with respect to the Equipment and this Agreement and each Lease. Lessee will not have the right to and will not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor.

Section 11.02. Assignment and Subleasing by Lessee. None of Lessee's right, title and interest in, to and under this Agreement, any Lease or in the Equipment may be assigned or encumbered by Lessee for any reason, except that Lessee may sublease all or part of the Equipment if Lessee obtains the prior written consent of Lessor and Special Tax Counsel that such subleasing will not adversely affect the exclusion of the interest components of the Rental Payments under the applicable Lease from gross income for federal income tax purposes. Any such sublease of all or part of the Equipment will be subject to this Agreement and the rights of Lessor in, to and under this Agreement, the applicable Lease and the Equipment.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES

Section 12.01. Events of Default Defined. Subject to the provisions of **Section 3.05**, any of the following will be "Events of Default" under any Lease:

- (a) Failure by Lessee to pay any Rental Payment or other payment required to be paid under that Lease at the time specified in that Lease;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed under that Lease, other than as referred to in **Section 12.01(a)**, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to Lessee by Lessor, unless Lessor will agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to that Lease or its execution, delivery or performance will prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

(d) Any provision of that Lease will at any time for any reason cease to be valid and binding on Lessee, or will be declared to be null and void, or the validity or enforceability thereof will be contested by Lessee or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of Lessor, or Lessee will deny that it has any further liability or obligation under that Lease;

(e) Lessee will (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

(f) An order, judgment or decree will be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree will continue unstayed and in effect for any period of 30 consecutive days.

Section 12.02. Remedies on Default. Whenever any Event of Default under any Lease exists, Lessor will have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may declare all Rental Payments and other amounts payable by Lessee under that Lease to the end of the then current Original Term or Renewal Term to be due;

(b) With or without terminating that Lease, Lessor may enter the premises where the Equipment that is subject to that Lease is located and retake possession of that Equipment or require Lessee at Lessee's expense to promptly return any or all of that Equipment to the possession of Lessor at a place specified by Lessor, and sell or lease that Equipment or, for the account of Lessee, sublease the Equipment, holding Lessee liable for the difference between (i) the Rental Payments and other amounts payable by Lessee under that Lease to the end of the then current Original Term or Renewal Term, and (ii) the net proceeds of any such sale, lease or sublease (after deducting all expenses of Lessor in exercising its remedies under that Lease, including without limitation, all

expenses of taking possession, storing, reconditioning and selling or leasing that Equipment and all brokerage, auctioneers' and attorneys' fees); and

(c) Lessor may take whatever other action at law or in equity may appear necessary or desirable to enforce its rights as the owner of the Equipment that is subject to that Lease.

Any net proceeds from the exercise of any remedy hereunder (after deducting all expenses of Lessor in exercising such remedies including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing Equipment and all brokerage, auctioneer's or attorney's fees) shall be applied as follows:

- (i) If such remedy is exercised solely with respect to a single Lease, Equipment subject to that Lease or rights under the Agreement related to that Lease, then to amounts due pursuant to that Lease and other amounts related to that Lease or that Equipment.
- (ii) If such remedy is exercised with respect to more than one Lease, Equipment subject to more than one Lease or rights under the Agreement related to more than one Lease, then to amounts due pursuant to those Leases pro rata.

In addition, Lessee will remain liable for all covenants and indemnities under this Agreement and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

Section 12.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy will be cumulative and will be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it will not be necessary to give any notice, other than such notice as may be required in this Article.

ARTICLE XIII

MISCELLANEOUS

Section 13.01. Notices. All notices, certificates or other communications hereunder will be sufficiently given and will be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto will designate in writing to the other for notices to such party), to any assignee at its address as it appears on the register maintained by Lessee.

Section 13.02. Binding Effect. This Agreement will inure to the benefit of and will be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.03. Severability. In the event any provision of this Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

Section 13.04. Entire Agreement. This Agreement constitutes the entire agreement between Lessor and Lessee.

Section 13.05. Amendments. This Lease may be amended, changed or modified in any manner by written agreement of Lessor and Lessee. Any waiver of any provision of this Lease or any right or remedy hereunder must be affirmatively and expressly made in writing and will not be implied from inaction, course of dealing or otherwise.

Section 13.06. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

Section 13.07. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 13.08. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State.

Section 13.09. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be stored 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.]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their corporate names by their duly authorized officers as of the date first above written.

CLAYTON HOLDINGS, LLC

By: _____

Title: _____

Address: 8000 Forsyth Boulevard
St. Louis, MO 63105

CITY OF GLADSTONE, MISSOURI

By: _____

Title: Mayor _____

Address: 7010 North Holmes
Gladstone, MO 64118

EXHIBIT A

FORM OF SCHEDULE OF EQUIPMENT NO. ____

COUNTERPART NO. ____

LESSOR'S INTEREST IN, TO AND UNDER THIS SCHEDULE AND THE AGREEMENT AS IT RELATES TO THIS SCHEDULE MAY BE SOLD OR PLEDGED ONLY BY DELIVERING POSSESSION OF COUNTERPART NO. 1 OF THIS SCHEDULE, WHICH COUNTERPART NO. 1 SHALL CONSTITUTE CHATTEL PAPER FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE.

Re: Schedule of Equipment No. __ dated _____, 20__ (the "Schedule"), to Master Equipment Lease Purchase Agreement dated as of December 22, 2017 (collectively, the "Agreement"), between Clayton Holdings, LLC, as Lessor, and City of Gladstone, Missouri, as Lessee.

1. Defined Terms. All terms used herein have the meanings ascribed to them in the Agreement.

2. Equipment. The Equipment included under this Schedule is comprised of the items described in the Equipment Description attached hereto as **Attachment 1**, together with all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto.

3. Payment Schedule. The Rental Payments and Purchase Prices under this Schedule are set forth in the Payment Schedule attached as **Attachment 2** hereto.

4. Representations, Warranties and Covenants. Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement are true and correct as though made on the date of commencement of Rental Payments on this Schedule.

5. Certification as to Arbitrage. Lessee hereby represents as follows:

(a) The estimated total costs of the Equipment listed in this Schedule, together with any costs of entering into this Schedule that are expected to be financed under this Schedule, will not be less than the total principal portion of the Rental Payments listed in this Schedule.

(b) The Equipment listed in this Schedule has been ordered or is expected to be ordered within six months of the commencement of this Schedule, and the Equipment is expected to be delivered, and the Vendor fully paid, within eighteen months of the commencement of this Schedule.

(c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments listed in this Schedule, or (ii) that may be used solely to prevent a default in the payment of the Rental Payments listed in this Schedule.

(d) The Equipment listed in this Schedule has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Rental Payments listed in this Schedule.

(e) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable.

(f) Lessee has not been notified of any listing or proposed listing of it by the Internal Revenue Service as an issuer whose arbitrage certificates may not be relied upon.

Lessee will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended, including without limitation Sections 103, 141 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation.

6. The Agreement. This Schedule is hereby made as part of the Agreement, and Lessor and Lessee hereby ratify and confirm the Agreement. The terms and provisions of the Agreement (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules) are hereby incorporated by reference and made a part hereof.

7. Other Provisions.

[To be provided, if any.]

Dated: _____, 20__.

CLAYTON HOLDINGS, LLC

By: _____
Title: _____
Address: 8000 Forsyth Boulevard
St. Louis, MO 63105

CITY OF GLADSTONE, MISSOURI

By: _____
Title: Mayor
Address: 7010 North Holmes
Gladstone, MO 64118

**ATTACHMENT 1 TO
SCHEDULE OF EQUIPMENT NO. ____**

EQUIPMENT DESCRIPTION

The Equipment consists of [Description of Equipment], including the items described on the attached invoices or purchase orders.

[Please attach copies of invoices or purchase orders further describing the Equipment.]

Together with any and all replacement parts, additions, repairs, modifications, attachments and accessories thereto, any and all substitutions, replacements or exchanges therefor, and any and all insurance and/or proceeds thereof.

The Equipment will be located at the following address(es):

[This Equipment Description shall be deemed to be supplemented by the descriptions of the Equipment included in the Payment Requests and Acceptance Certificates submitted to Commerce Bank, as escrow agent, pursuant to the Escrow Agreement dated as of _____, 20__, among Lessor, Lessee and Commerce Bank, as escrow agent, which descriptions shall be deemed to be incorporated herein.]

**ATTACHMENT 2 TO
SCHEDULE OF EQUIPMENT NO. ____**

PAYMENT SCHEDULE

Rental payments will be made in accordance with **Section 4.01** of the Agreement and this Payment Schedule.

Principal Amount: \$ _____

Interest Rate: _____%, 30/360 basis; monthly compounding

<u>Rental Payment Date</u>	<u>Interest Portion</u>	<u>Principal Portion</u>	<u>Total Rental Payment</u>	<u>Purchase Price</u>
------------------------------------	-----------------------------	------------------------------	-------------------------------------	---------------------------

[To be provided by Lessor.]

EXHIBIT B

FORM OF OPINION OF LESSEE'S COUNSEL

_____, 20__

Clayton Holdings, LLC
St. Louis, Missouri

Gilmore & Bell, P.C.
Kansas City, Missouri

Re: Schedule of Equipment No. ___ dated _____, 20__ (the "Schedule"), to Master Equipment Lease Purchase Agreement dated as of December 22, 2017 (the "Agreement," and together with the Schedule, the "Lease"), between Clayton Holdings, LLC, as Lessor, and City of Gladstone, Missouri, as Lessee.

Ladies and Gentlemen:

As legal counsel to Lessee, I have examined (a) an executed counterparts of the Agreement and the Schedule, which, among other things, provides for the sale to and purchase by the Lessee of certain property listed in the Schedule (the "Equipment"), [(b) an executed counterpart of the Escrow Agreement dated as of _____, 20__ (the "Escrow Agreement"), among Lessor, Lessee and Commerce Bank, as escrow agent], (c) an executed counterpart of the Federal Tax Certificate dated as of _____, 20__ (the "Tax Certificate"), executed by Lessee, (d) an executed counterpart of the ordinance of Lessee which, among other things, authorizes Lessee to execute the Lease[, the Escrow Agreement] and the Tax Certificate, and (e) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions. All capitalized terms herein will have the same meanings as in the Lease.

Based on the foregoing, I am of the following opinions:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power.
2. Lessee has the requisite power and authority to purchase the Equipment and to execute and deliver the Lease[, the Escrow Agreement] and the Tax Certificate and to perform its obligations thereunder.
3. The Lease[, the Escrow Agreement], the Tax Certificate and the other documents either attached thereto or required therein have been duly authorized, approved and executed by and on behalf of Lessee, and the Lease[, the Escrow Agreement] and the Tax Certificate are valid and binding obligations of Lessee enforceable in accordance with their respective terms.

4. The authorization, approval and execution of the Lease[, the Escrow Agreement], the Tax Certificate and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state and federal laws.

5. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Lease or the security interest of Lessor or its assigns, as the case may be, in the Equipment.

Lessor, its successors and assigns and any counsel rendering an opinion on the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation are entitled to rely on this opinion.

Very truly yours,

EXHIBIT C

FORM OF LESSEE'S CLOSING CERTIFICATE

\$ _____
SCHEDULE OF EQUIPMENT NO. _____ DATED _____, 20____, TO
MASTER EQUIPMENT LEASE PURCHASE AGREEMENT
DATED AS OF DECEMBER 22, 2017,
BETWEEN
CLAYTON HOLDINGS, LLC, AS LESSOR,
AND
CITY OF GLADSTONE, MISSOURI, AS LESSEE

We, _____ and _____, Mayor and City Clerk, respectively, duly elected or appointed, qualified and acting as such, of the City of Gladstone, Missouri (the "City"), do hereby certify as follows:

Capitalized terms used herein and not otherwise defined will be as defined in that certain Master Equipment Lease Purchase Agreement dated as of December 22, 2017, and Schedule of Equipment No. _____ thereto dated _____, 2014 (together, the "Lease"), between the City, as lessee, and Clayton Holdings, LLC, as lessor (the "Lessor").

1. The documents listed on the closing list included in this transcript constitute a full, true and correct transcript of all documents and proceedings in connection with the execution and delivery by the City of the Lease.

2. Attached hereto is a full, true and correct copy of an ordinance passed by the City Council of the City on _____, 20____, and the ordinance has not been modified, amended or repealed, and remains in full force and effect. The ordinance is the only official action taken by the City Council of the City that is presently in effect relating to the transaction contemplated by the Lease.

3. The first reading of the ordinance described above was at a meeting of the City Council of the City held on _____, 20____, and the second reading and final passage was at a meeting of the City Council of the City held on _____, 20____. At each of those meetings a quorum was present and acting throughout, the meetings were held at a place convenient and reasonably accessible to the public and at a time reasonably convenient to the public and were otherwise held in accordance with the procedural requirements of the City and applicable law. Every reasonable effort was made to grant special access to the meetings to handicapped or disabled individuals. Notice of each meeting was given at the times and in the manner provided by applicable law.

4. The following documents (the "City Documents") have been duly executed and delivered on behalf of the City by _____, Mayor of the City, and the seal of the City has been affixed thereto and attested by _____, City Clerk, and an executed counterpart or a full, true and correct copy of each of the City Documents is included in this transcript:

<u>Document</u>	<u>Date</u>	<u>Other Party or Parties</u>
Master Equipment Lease Purchase Agreement	December 22, 2017	Clayton Holdings, LLC (the "Lessor")
Schedule of Equipment No. ____	____, 20__	Lessor
[Escrow Agreement	____, 20__	Lessor Commerce Bank, as escrow agent]
Federal Tax Certificate	____, 20__	

5. The City has authorized, by all necessary action, the execution, delivery, receipt and due performance of the City 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 thereby.

6. The following persons were and are now the duly qualified and acting members of the City Council of the City at and during all times during the proceedings relating to the execution and delivery of the Lease, except as specified below:

<u>Name</u>	<u>Title</u>
-------------	--------------

_____, Mayor is hereby designated as the Authorized Representative of the City, and the signature appearing at the end of this Certificate is his true and genuine signature.

7. There is no controversy, suit or proceeding of any kind pending or, to the knowledge of the City, threatened wherein or whereby any question is raised, or may be raised, questioning, disputing or affecting in any way the legal organization of the City, or the legality of any official act shown to have been done regarding the execution and delivery of the City Documents or the constitutionality or validity of the obligation represented by the Lease or the means provided for the Rental Payments under the Lease.

8. The representations and warranties of the City contained in the City Documents are true and correct on and as of the date hereof with the same effect as if made on the date hereof. All such representations and warranties, as well as those made herein will be deemed to be for the benefit of the

Lessor and the attorney a providing legal opinion in connection with the Lease. The City has complied with all of the agreements and satisfied all of the conditions to be performed or satisfied on its part prior to the date hereof.

9. No condition or event exists that constitutes, or with the giving of notice or the passage of time or both would constitute, a Default or an Event of Default under the Lease.

10. To the City's knowledge, no member of the City Council of the City has any pecuniary interest, directly or indirectly, in any contract, employment, purchase or sale made, or to be made in connection with the proposed transaction contemplated in the Lease.

11. To the City's knowledge, the City's execution and delivery of the City Documents and the performance of the terms thereof by the City will not violate any provision of law, or any ordinance or resolution of the City, or any applicable judgment, order, rule or regulation, of any court or any public or governmental agency or authority, and will not conflict with, violate or result in the breach of any of the provisions of or constitute a default under, any indenture, mortgage or other agreement or instrument to which the City is a party or by which it or its properties are bound.

12. All approvals, consents, authorizations and orders required to be obtained by the City in connection with the City Documents and the performance of the terms thereof by the City have been duly obtained.

DATED: _____, 20__.

CITY OF GLADSTONE, MISSOURI

By _____
Mayor

[SEAL]

ATTEST:

City Clerk

SCHEDULE OF EQUIPMENT NO. 1

COUNTERPART NO. _____

LESSOR'S INTEREST IN, TO AND UNDER THIS SCHEDULE AND THE AGREEMENT AS IT RELATES TO THIS SCHEDULE MAY BE SOLD OR PLEDGED ONLY BY DELIVERING POSSESSION OF COUNTERPART NO. 1 OF THIS SCHEDULE, WHICH COUNTERPART NO. 1 SHALL CONSTITUTE CHATTEL PAPER FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE.

Re: Schedule of Equipment No. 1 dated December 22, 2017 (the "Schedule"), to Master Equipment Lease Purchase Agreement dated as of December 22, 2017 (collectively, the "Agreement"), between Clayton Holdings, LLC, as Lessor, and City of Gladstone, Missouri, as Lessee.

1. Defined Terms. All terms used herein have the meanings ascribed to them in the Agreement.

2. Equipment. The Equipment included under this Schedule is comprised of the items described in the Equipment Description attached hereto as **Attachment 1**, together with all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto.

3. Payment Schedule. The Rental Payments and Purchase Prices under this Schedule are set forth in the Payment Schedule attached as **Attachment 2** hereto. In accordance with the provisions of Section 10.01(a) of the Agreement, this Schedule is subject to optional prepayment by Lessee in whole at 101% of the principal amount thereof on _____, 20__, or any Rental Payment Date thereafter. Notwithstanding the foregoing, there is no prepayment premium if Lessee is using funds other than proceeds of a grant or an actual or anticipated refunding.

4. Representations, Warranties and Covenants. Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement are true and correct as though made on the date of commencement of Rental Payments on this Schedule.

5. Certification as to Arbitrage. Lessee hereby represents as follows:

(a) The estimated total costs of the Equipment listed in this Schedule, together with any costs of entering into this Schedule that are expected to be financed under this Schedule, will not be less than the total principal portion of the Rental Payments listed in this Schedule.

(b) The Equipment listed in this Schedule has been ordered or is expected to be ordered within six months of the commencement of this Schedule, and the Equipment is expected to be delivered, and the Vendor fully paid, within eighteen months of the commencement of this Schedule.

(c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments listed in this Schedule, or (ii) that may be used solely to prevent a default in the payment of the Rental Payments listed in this Schedule.

(d) The Equipment listed in this Schedule has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Rental Payments listed in this Schedule.

(e) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable.

(f) Lessee has not been notified of any listing or proposed listing of it by the Internal Revenue Service as an issuer whose arbitrage certificates may not be relied upon.

Lessee will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended, including without limitation Sections 103, 141 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation.

6. The Agreement. This Schedule is hereby made as part of the Agreement, and Lessor and Lessee hereby ratify and confirm the Agreement. The terms and provisions of the Agreement (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules) are hereby incorporated by reference and made a part hereof.

7. Cross-Collateralization; Cross-Default. Notwithstanding any provision herein to the contrary, Lessor and Lessee intend that this Schedule and Schedule of Equipment No. 2 dated December 22, 2017 (the "Other Schedule") shall be and hereby are cross-collateralized. Without limiting the generality of the foregoing, Lessor and Lessee agree that in an Event of Default hereunder with respect to any of the Equipment subject to this Schedule and the Other Schedule, such Event of Default shall be deemed and shall constitute an Event of Default with respect to the Agreement and under each of this Schedule and the Other Schedule, and Lessor shall have the right to exercise all rights and remedies under the Agreement.

Dated: December 22, 2017.

CLAYTON HOLDINGS, LLC

By: _____
Title: _____
Address: 8000 Forsyth Boulevard
St. Louis, MO 63105

CITY OF GLADSTONE, MISSOURI

By: _____
Title: Mayor
Address: 7010 North Holmes
Gladstone, MO 64118

**ATTACHMENT 1 TO
SCHEDULE OF EQUIPMENT NO. 1**

EQUIPMENT DESCRIPTION

The Equipment consists of the following equipment to be used by Lessee, together with any and all replacement parts, additions, repairs, modifications, attachments and accessories thereto, any and all substitutions, replacements or exchanges therefor, and any and all insurance and/or proceeds thereof:

Park Improvements for four City Parks
Energy savings improvements
Public Works improvements

This Equipment Description shall be deemed to be supplemented by the descriptions of the Equipment included in the Payment Requests and Acceptance Certificates submitted to Commerce Bank, as escrow agent, pursuant to the Escrow Agreement dated as of December 1, 2017, among Lessor, Lessee and Commerce Bank, as escrow agent, which descriptions shall be deemed to be incorporated herein. Notwithstanding provisions of the Lease to the contrary, energy savings improvements that will be installed in the City's Community Center will not be subject to the security interest granted under the Lease.

**ATTACHMENT 2 TO
SCHEDULE OF EQUIPMENT NO. 7**

PAYMENT SCHEDULE

Rental payments will be made in accordance with **Section 4.01** of the Agreement and this Payment Schedule.

Principal Amount: \$7,180,000.00

Interest Rate: _____ 3.38%, 30/360 basis; monthly compounding

Rental Payment Date	Total Rental Payment	Interest Portion	Principal Portion	Purchase Price*
------------------------	-------------------------	---------------------	----------------------	--------------------

* Lessee may exercise its option to purchase pursuant to **Section 10.01(b)** of the Agreement at any time; option to purchase pursuant to **Section 10.01(a)** of the Agreement may be exercised on _____, 20__, and any Rental Payment Date thereafter. In addition, the Purchase Price, including a prepayment premium, if any, is governed by the terms set forth in this Schedule.

SCHEDULE OF EQUIPMENT NO. 2

COUNTERPART NO. _____

LESSOR'S INTEREST IN, TO AND UNDER THIS SCHEDULE AND THE AGREEMENT AS IT RELATES TO THIS SCHEDULE MAY BE SOLD OR PLEDGED ONLY BY DELIVERING POSSESSION OF COUNTERPART NO. 1 OF THIS SCHEDULE, WHICH COUNTERPART NO. 1 SHALL CONSTITUTE CHATTEL PAPER FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE.

Re: Schedule of Equipment No. 2 dated December 22, 2017 (the "Schedule"), to Master Equipment Lease Purchase Agreement dated as of December 22, 2017 (collectively, the "Agreement"), between Clayton Holdings, LLC, as Lessor, and City of Gladstone, Missouri, as Lessee.

1. Defined Terms. All terms used herein have the meanings ascribed to them in the Agreement.

2. Equipment. The Equipment included under this Schedule is comprised of the items described in the Equipment Description attached hereto as **Attachment 1**, together with all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto.

3. Payment Schedule. The Rental Payments and Purchase Prices under this Schedule are set forth in the Payment Schedule attached as **Attachment 2** hereto. In accordance with the provisions of Section 10.01(a) of the Agreement, this Schedule is subject to optional prepayment by Lessee in whole at 101% of the principal amount thereof on _____, 20__, or any Rental Payment Date thereafter. Notwithstanding the foregoing, there is no prepayment premium if Lessee is using funds other than proceeds of a grant or an actual or anticipated refunding.

4. Representations, Warranties and Covenants. Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement are true and correct as though made on the date of commencement of Rental Payments on this Schedule.

5. Certification as to Arbitrage. Lessee hereby represents as follows:

(a) The estimated total costs of refinancing the Equipment listed in this Schedule, together with any costs of entering into this Schedule that are expected to be financed under this Schedule, will not be less than the total principal portion of the Rental Payments listed in this Schedule.

(b) The Equipment listed in this Schedule has been delivered, installed and paid for and has been accepted by Lessee for all purposes.

(c) The Equipment is in good working order and condition and there are no disputes with the Vendor with respect thereto.

(d) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental

Payments listed in this Schedule, or (ii) that may be used solely to prevent a default in the payment of the Rental Payments listed in this Schedule.

(e) The Equipment listed in this Schedule has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Rental Payments listed in this Schedule.

(f) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable.

(g) Lessee has not been notified of any listing or proposed listing of it by the Internal Revenue Service as an issuer whose arbitrage certificates may not be relied upon.

Lessee will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended, including without limitation Sections 103, 141 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation.

6. The Agreement. This Schedule is hereby made as part of the Agreement, and Lessor and Lessee hereby ratify and confirm the Agreement. The terms and provisions of the Agreement (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules) are hereby incorporated by reference and made a part hereof.

7. Cross-Collateralization; Cross-Default. Notwithstanding any provision herein to the contrary, Lessor and Lessee intend that this Schedule and Schedule of Equipment No. 1 dated December 22, 2017 (the "Other Schedule") shall be and hereby are cross-collateralized. Without limiting the generality of the foregoing, Lessor and Lessee agree that in an Event of Default hereunder with respect to any of the Equipment subject to this Schedule and the Other Schedule, such Event of Default shall be deemed and shall constitute an Event of Default with respect to the Agreement and under each of this Schedule and the Other Schedule, and Lessor shall have the right to exercise all rights and remedies under the Agreement.

Dated: December 22, 2017.

CLAYTON HOLDINGS, LLC

By: _____
Title: _____
Address: 8000 Forsyth Boulevard
St. Louis, MO 63105

CITY OF GLADSTONE, MISSOURI

By: _____
Title: Mayor
Address: 7010 North Holmes
Gladstone, MO 64118

**ATTACHMENT 1 TO
SCHEDULE OF EQUIPMENT NO. 2**

EQUIPMENT DESCRIPTION

The Equipment consists of the following equipment to be used by Lessee's Parks Department, together with any and all replacement parts, additions, repairs, modifications, attachments and accessories thereto, any and all substitutions, replacements or exchanges therefor, and any and all insurance and/or proceeds thereof:

The Series 2011 Equipment financed by the Certificates of Participation, Series 2011, evidencing a proportionate interest in basic rent payments to be made by the City of Gladstone, Missouri pursuant to an annually renewable lease purchase agreement

This Equipment Description shall be deemed to be supplemented by the descriptions of the Equipment included in the Payment Requests and Acceptance Certificates submitted to Commerce Bank, as escrow agent, pursuant to the Escrow Agreement dated as of December 1, 2017, among Lessor, Lessee and Commerce Bank, as escrow agent, which descriptions shall be deemed to be incorporated herein.

**ATTACHMENT 2 TO
SCHEDULE OF EQUIPMENT NO. 7**

PAYMENT SCHEDULE

Rental payments will be made in accordance with **Section 4.01** of the Agreement and this Payment Schedule.

Principal Amount: \$4,000,000.00

Interest Rate: 2.63%, 30/360 basis; monthly compounding

<u>Rental</u> <u>Payment Date</u>	<u>Total</u> <u>Rental Payment</u>	<u>Interest</u> <u>Portion</u>	<u>Principal</u> <u>Portion</u>	<u>Purchase</u> <u>Price*</u>
--------------------------------------	---------------------------------------	-----------------------------------	------------------------------------	----------------------------------

- * Lessee may exercise its option to purchase pursuant to **Section 10.01(b)** of the Agreement at any time; option to purchase pursuant to **Section 10.01(a)** of the Agreement may be exercised on _____, 20__, and any Rental Payment Date thereafter. In addition, the Purchase Price, including a prepayment premium, if any, is governed by the terms set forth in this Schedule.

ESCROW TRUST AGREEMENT

Dated December 22, 2017

BETWEEN

CITY OF GLADSTONE, MISSOURI

AND

BOKF, N.A.

Entered in Connection with the Delivery of

\$ _____
SCHEDULE OF EQUIPMENT NO. 2 TO
MASTER EQUIPMENT LEASE PURCHASE AGREEMENT,
BOTH DATED AS OF DECEMBER 22, 2017 BETWEEN
CLAYTON HOLDINGS, LLC, AS LESSOR, AND
CITY OF GLADSTONE, MISSOURI, AS LESSEE

To Defeas the outstanding City of Gladstone, Missouri, Certificates
of Participation, Series 2011.

ESCROW TRUST AGREEMENT

THIS ESCROW TRUST AGREEMENT dated December 22, 2017 (the "Agreement"), by and between the **CITY OF GLADSTONE, MISSOURI** (the "City") and **BOKF, N.A.**, a national banking association duly organized under the laws of the United States of America, located in Kansas City, Missouri, and having full trust powers, as Escrow Agent (the "Escrow Agent").

WITNESSETH:

WHEREAS, the City has heretofore duly authorized its Certificates of Participation, Series 2011, the outstanding principal amount of which it has determined to defease and advance refund (the "Refunded Certificates");

WHEREAS, the Refunded Certificates will mature and will have interest payable in the amounts and at the times shown on **Schedule 1** attached hereto;

WHEREAS, the City has, pursuant to its Ordinance No. ____, authorized the Schedule of Equipment No. 2 to Master Equipment Lease Purchase Agreement, both dated as of December 22, 2017 between Clayton Holdings, LLC, as Lessor (together, the "Refunding Lease"), for the purpose of providing funds to, among other things, advance refund the Refunded Certificates; and

WHEREAS, with a portion of the proceeds of the Refunding Lease, the City intends to provide for the payment of the principal of and interest on the Refunded Certificates through the purchase of obligations of the United States of America described in **Schedule 2** attached hereto and the establishment of an initial cash balance in the Escrow Fund (defined herein);

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

1. Definitions. The following words and terms used in this Agreement shall have the following meanings:

"**Certificate Payment Date**" means any date on which any principal of or interest on any of the Refunded Certificates is due and payable as shown on **Schedule 1** hereto.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Escrow Agent**" means BOKF, N.A., Kansas City, Missouri, and its successor or successors at the time acting as the Escrow Agent under this Agreement.

"**Escrow Fund**" means the fund by that name referred to in **Section 3** of this Agreement.

"**Escrowed Securities**" means the United States Treasury Obligations listed on **Schedule 2** attached hereto and any Substitute Escrowed Securities.

"**Paying Agent**" means the trustee and paying agent for the Refunded Certificates as designated in the Refunded Indenture, and any successor or successors at the time acting as trustee and paying agent for any of the Refunded Certificates.

"**Refunded Certificates**" means the City's Certificates of Participation, Series 2011, the outstanding principal amount of which it has determined to defease and advance refund.

"Refunded Indenture" means the Declaration of Trust dated as of March 1, 2011 that authorized the Refunded Certificates.

"Refunding Lease" means the Schedule of Equipment No. 2 to Master Equipment Lease Purchase Agreement, both dated as of December 22, 2017 between Clayton Holdings, LLC, as Lessor.

"Series 2011 Base Lease" means the Base Lease dated March 1, 2011 between the City, as lessor and BOKF, N.A. (as successor to Southwest Trust Company, N.A.), as lessee.

"Series 2011 Lease" means the Lease Purchase Agreement dated March 1, 2011 between the BOKF, N.A., as lessor, and the City, as lessee.

"Special Counsel" means Gilmore & Bell, P.C. or other firm of attorneys nationally recognized on the subject of municipal bonds.

"State" means the State of Missouri.

"Substitute Escrowed Securities" means non-callable direct obligations of the United States of America, which have been acquired by the Escrow Agent and substituted for Escrowed Securities in accordance with **Section 8** of this Agreement.

2. Receipt of Refunding Lease and Refunded Indenture. Receipt of a true and correct copy of the Refunding Lease and the Refunded Indenture is hereby acknowledged by the Escrow Agent, and reference herein to or citation herein of any provisions of said documents shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if they were fully set forth herein.

3. Creation of Escrow Fund. There is hereby created and established with the Escrow Agent the following special and irrevocable separate trust fund to be held in the custody of the Escrow Agent and designated as the "Escrow Fund for the Certificates of Participation, Series 2011" (the "Escrow Fund").

4. Verification of Certified Public Accountants. Ritz & Associates PA have verified the mathematical computations performed by Lessor, which demonstrate that the cash held in the Escrow Fund, together with the maturing Escrowed Securities and interest to accrue thereon, will be sufficient to pay all principal of and interest on the Refunded Certificates on the respective payment dates.

5. Deposits to the Escrow Fund. Concurrently with the execution and delivery of this Agreement, and pursuant to the provisions of the Refunding Lease, the Escrow Agent acknowledges receipt and deposit into the Escrow Fund of the aggregate total amount of \$_____, consisting of proceeds of the Refunding Lease. The Escrow Agent shall apply such amount as follows:

(a) \$_____ shall be used to purchase the Escrowed Securities described in **Schedule 2** hereto, which shall be delivered to and deposited in the Escrow Fund.

(b) \$_____ shall be held in the Escrow Fund as a beginning cash balance.

6. Creation of Lien. The escrow created hereby shall be irrevocable. The holders of the Refunded Certificates are hereby given an express lien on and security interest in the Escrowed Securities and the cash in the Escrow Fund and all earnings thereon until used and applied in accordance with this Agreement. The matured principal of and earnings on the Escrowed Securities and any cash in the Escrow Fund are hereby pledged and assigned and shall be applied solely for the payment of the principal of and interest on the Refunded Certificates. In consideration of the termination of the Base Lease dated March 1,

2011 between the City, as lessor and BOKF, N.A. (as successor to Southwest Trust Company, N.A.), as lessee (the "Series 2011 Base Lease"), and the Lease Purchase Agreement dated March 1, 2011 between the BOKF, N.A., as lessor, and the City, as lessee (the "Series 2011 Lease"), related to the Refunded Certificates, the City agrees (a) to the deposit of funds in the Escrow Fund, and (b) to pay the principal of, redemption premium and interest on the Refunded Certificates in accordance with **Schedule 1** attached hereto solely from monies and Escrowed Securities on deposit in the Escrow Fund.

7. Application of Cash and Escrowed Securities in the Escrow Fund.

(a) Except as otherwise expressly provided in this Section or in **Section 8** hereof, the Escrow Agent shall have no power or duty to invest any money held hereunder or to sell, transfer or otherwise dispose of any Escrowed Securities.

(b) On or prior to each Certificate Payment Date, the Escrow Agent shall withdraw from the Escrow Fund an amount equal to the principal of and interest on the Refunded Certificates becoming due and payable on such Certificate Payment Date, as set forth in **Schedule 1** attached hereto, and shall forward such amount to the offices of the Paying Agent, so that immediately available funds will reach the offices of the Paying Agent on or before 11:00 a.m., Central Time, on such Certificate Payment Date. In order to make the payments required by this subsection (b), the Escrow Agent is hereby authorized to redeem or otherwise dispose of Escrowed Securities in accordance with the maturity schedules in **Schedule 2** attached hereto. The liability of the Escrow Agent to make the payments required by this subsection (b) shall be limited to the money and Escrowed Securities in the Escrow Fund.

(c) Notwithstanding any other provisions of this Agreement, the City and the Escrow Agent hereby covenant that no part of the proceeds of the Refunding Lease or of the money or funds in the Escrow Fund shall be used, at any time, directly or indirectly, in a manner that, if such use had been reasonably anticipated on the date of delivery of the Refunding Lease, would have caused any of the Refunded Certificates to be an "arbitrage bond" under Section 148 of the Code.

(d) Upon the payment in full of the principal of and interest on the Refunded Certificates, all remaining money and Escrowed Securities in the Escrow Fund, together with any interest thereon, shall immediately be paid to the Lessor of the Refunded Certificates or to any assignees or subassignees of such Lessor's interest in the Refunding Lease.

8. Substitute Escrowed Securities.

(a) In the event that any of the Escrowed Securities are not available for delivery on the date of the delivery of the Refunding Lease, the Escrow Agent is directed to accept substitute securities in lieu thereof, provided: (1) the substitute securities are non-callable direct obligations of the United States of America; (2) the maturing principal of and interest on such substitute securities (excluding any interest after any optional call date) is equal to or greater than the maturity value of such unavailable Escrowed Securities; (3) the principal of and interest on the substitute securities is payable on or before the maturity date of the unavailable Escrowed Securities; (4) the Escrow Agent shall receive from an independent certified public accountant acceptable to the Escrow Agent in its reasonable judgment a certification, satisfactory in form and substance to the Escrow Agent, to the effect that after such substitution, the principal of and interest on the Escrowed Securities to be held in the Escrow Fund after giving effect to the substitution (including Substitute Escrowed Securities to be acquired), together with any other money to be held in the Escrow Fund after such transaction, will be sufficient to pay all remaining principal of and interest on the Refunded Certificates pursuant to **Schedule 1** hereto; (5) the City and Special Counsel approve such substitution; and (6) the Escrow Agent receives an Opinion of Special Counsel to the effect that such substitution would not cause the interest on any tax-exempt Refunded Certificates or Refunding Lease to become included in gross income for purposes of federal income taxation under then existing law.

If the original Escrowed Securities become available and are tendered to the Escrow Agent by or on behalf of the Lessor of the Refunding Lease, the Escrow Agent shall accept such Escrowed Securities, shall return the Substitute Escrowed Securities as directed by such Lessor of the Refunding Lease and shall notify Special Counsel and the City of the transaction.

(b) At the written request of the City and upon compliance with the conditions hereinafter stated, the Escrow Agent shall have the power to sell, transfer, request the redemption of or otherwise dispose of the Escrowed Securities and to substitute for the Escrowed Securities solely cash or Substitute Escrowed Securities. The Escrow Agent shall purchase such Substitute Escrowed Securities with the proceeds derived from the sale, transfer, disposition or redemption of the Escrowed Securities together with any other funds available for such purpose. The substitution may be effected only if: (1) the substitution of the Substitute Escrowed Securities for the original Escrowed Securities occurs simultaneously; (2) the Escrow Agent receives from an independent certified public accountant acceptable to the Escrow Agent in its reasonable judgment a certification, satisfactory in form and substance to the Escrow Agent, to the effect that after such substitution, the principal of and interest on the Escrowed Securities to be held in the Escrow Fund after giving effect to the substitution (including Substitute Escrowed Securities to be acquired), together with any other money to be held in the Escrow Fund after such transaction, will be sufficient to pay all remaining principal of, redemption premium, if any, and interest on the Refunded Certificates pursuant to **Schedule 1** hereto; and (3) the Escrow Agent shall receive an opinion of Special Counsel to the effect that such substitution would not cause the interest on any tax-exempt Refunded Certificates or Refunding Lease to become included in gross income for purposes of federal income taxation under then existing law. In the event that any such substitution results in cash held in the Escrow Fund in excess of the cash required for the certification of an independent certified public accountant referred to in this subsection (b) (as evidenced by such certification), the Escrow Agent shall, at the request of the City, withdraw such excess from the Escrow Fund and pay such excess to the City; provided that, in the opinion of Special Counsel, such withdrawal and application will not be contrary to State law and will not cause the interest on any tax-exempt Refunding Lease or the Refunded Certificates to become included in gross income for purposes of federal income taxation.

9. Defeasance of Refunded Certificates.

(a) The parties hereto acknowledge and agree that (a) the City has irrevocably elected to defease the Refunded Certificates in accordance with the Refunded Indenture and (b) the City hereby directs the Escrow Agent, as the Paying Agent for the Refunded Certificates, to cause notice of the defeasance and redemption of the Refunded Certificates to be given in the manner provided in the Refunded Indenture for redemption and prepayment on June 1, 2018.

(b) Although the City is canceling the Series 2011 Base Lease and the Series 2011 Lease in connection with the issuance of the Refunding Lease and the refunding of the Refunded Certificates, the City is not canceling the Obligation. This Escrow Agreement represents evidence of the City's continuing Obligation, and all payments made by the Escrow Agent to Owners of the Refunded Certificates shall constitute payments of the interest component and the principal component of the Rental Payments to those Owners.

10. Reports of the Escrow Agent. As long as any of the Refunded Certificates, together with the interest thereon, have not been paid in full, the Escrow Agent shall, at least 60 days prior to each Certificate Payment Date, determine the amount of money that will be available in the Escrow Fund to pay the principal of and interest on the Refunded Certificates on the next Certificate Payment Date and if the Escrow Agent determines that sufficient funds will not be available on such Certificate Payment Date, then the Escrow Agent shall certify in writing to the City the amount so determined, and provide a list of the money and Escrowed Securities held by it in the Escrow Fund on the date of such certification.

11. Liability of Escrow Agent.

(a) The Escrow Agent shall not be liable for any loss resulting from any investment, sale, transfer or other disposition made pursuant to this Agreement in compliance with the provisions hereof. The Escrow Agent shall have no lien whatsoever on any of the money or Escrowed Securities on deposit in the Escrow Fund for the payment of fees and expenses for services rendered by the Escrow Agent under this Agreement or otherwise.

(b) The Escrow Agent shall not be liable for the accuracy of the calculations as to the sufficiency of the Escrowed Securities and money held in the Escrow Fund to pay the Refunded Certificates. So long as the Escrow Agent applies the Escrowed Securities and money held in the Escrow Fund as provided herein, the Escrow Agent shall not be liable for any deficiencies in the amounts necessary to pay the Refunded Certificates caused by such calculations. Notwithstanding the foregoing, the Escrow Agent shall not be relieved of liability arising from and proximate to its failure to comply fully with the terms of this Agreement.

(c) If the Escrow Agent fails to account for any of the Escrowed Securities or money received by it, said Escrowed Securities or money shall be and remain the property to be held in trust for the holders of the Refunded Certificates, and, if for any reason such Escrowed Securities or money are not applied as herein provided, the assets of the Escrow Agent shall be impressed with a trust for the amount thereof until the required application shall be made.

(d) The Escrow Agent may rely and shall be protected in acting upon or refraining from acting upon in good faith any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, verification, order, debenture or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(e) The Escrow Agent undertakes to perform such duties and only such duties as are specifically set forth in this Agreement.

(f) No provision of this Agreement shall be construed to relieve the Escrow Agent from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that the Escrow Agent shall not be liable for any error of judgment made in good faith by an authorized officer or employee of the Escrow Agent, unless it shall be provided that the Escrow Agent was negligent in ascertaining the pertinent facts, or for the misconduct or negligence of any agent appointed with due care.

(g) Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the liability of or affording protection to the Escrow Agent shall be subject to the provisions of this Section.

12. Fees and Costs of the Escrow Agent. The aggregate amount of the costs, fees and expenses of the Escrow Agent in connection with the creation of the escrow described in and created by this Agreement and in carrying out any of the duties, terms or provisions of this Agreement shall be paid concurrently with the delivery of the Refunding Lease from moneys other than moneys in the Escrow Fund.

Notwithstanding the preceding paragraph, the Escrow Agent shall be entitled to reimbursement from the City of reasonable out-of-pocket, legal or extraordinary expenses incurred in carrying out the duties, terms or provisions of this Agreement. Claims for such reimbursement may be made to the City and in no event shall such reimbursement be made from funds held by the Escrow Agent pursuant to this Agreement.

If the Escrow Agent resigns prior to the expiration of this Agreement, the Escrow Agent shall rebate to the City a ratable portion of any fee theretofore paid by the City to the Escrow Agent for its services under this Agreement.

13. Resignation or Removal of Escrow Agent; Successor Escrow Agent. The Escrow Agent at the time acting hereunder may at any time resign and be discharged from its duties and responsibilities hereby created by giving written notice by registered or certified mail to the City and the Paying Agent and by first class mail, postage prepaid, to all of the owners of the Refunded Certificates not less than 60 days prior to the date when the resignation is to take effect. Such resignation shall take effect immediately upon the acceptance of the City of the resignation, the appointment of a successor Escrow Agent (which may be a temporary Escrow Agent) by the City, the acceptance of such successor Escrow Agent of the terms, covenants and conditions of this Agreement, the transfer of the Escrow Fund, including the money and Escrowed Securities held therein, to such successor Escrow Agent and the completion of any other actions required for the principal of and interest on the Escrowed Securities to be made payable to such successor Escrow Agent rather than the resigning Escrow Agent.

The Escrow Agent may be removed at any time by an instrument or concurrent instruments in writing, delivered to the Escrow Agent and the City and signed by the owners of a majority in principal amount of the Refunded Certificates then outstanding; provided that written notice thereof is mailed on or before the date of such removal by first class mail, postage prepaid, to all registered owners of such Refunded Certificates, who are not parties to such instruments. The Escrow Agent may also be removed by the City if the Escrow Agent fails to make timely payment on any Certificate Payment Date to the Paying Agent of the amounts required to be paid by it on such Certificate Payment Date by **Section 7(b)** of this Agreement; provided that written notice thereof is mailed on or before the date of such removal by registered or certified mail to the Paying Agent and by first class mail, postage prepaid, to all registered owners of such Refunded Certificates, who are not parties to such instruments. Any removal pursuant to this paragraph shall become effective upon the appointment of a successor Escrow Agent (which may be a temporary successor Escrow Agent) by the City, the acceptance of such successor Escrow Agent of the terms, covenants and conditions of this Agreement, the transfer of the Escrow Fund, including the money and Escrowed Securities held therein, to such successor Escrow Agent and the completion of any other actions required for the principal of and interest on the Escrowed Securities to be made payable to such successor Escrow Agent rather than the Escrow Agent being removed.

If the Escrow Agent shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case the Escrow Agent shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, the City shall appoint a temporary Escrow Agent to fill such vacancy until a successor Escrow Agent shall be appointed by the City in the manner above provided, and any such temporary Escrow Agent so appointed by the City shall immediately and without further act be superseded by the successor Escrow Agent so appointed.

If no appointment of a successor Escrow Agent or a temporary successor Escrow Agent shall have been made by the City pursuant to the foregoing provisions of this Section within 60 days after written notice of resignation of the Escrow Agent has been given to the City, the holder of any of the Refunded Certificates or any retiring Escrow Agent may apply to any court of competent jurisdiction for the appointment of a successor Escrow Agent, and such court may thereupon, after such notice, if any, as it shall deem proper, appoint a successor Escrow Agent.

No successor Escrow Agent shall be appointed unless such successor Escrow Agent shall be a corporation with trust powers authorized to do business in the State of Missouri and organized under the banking laws of the United States or the State of Missouri and shall have at the time of appointment capital and surplus of not less than \$25,000,000.

Every successor Escrow Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and to the City an instrument in writing accepting such appointment hereunder, and thereupon such successor Escrow Agent without any further act, deed or conveyance shall become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor, but such predecessor shall, nevertheless, on the written request of such successor Escrow Agent or the City, execute and deliver an instrument transferring to such successor Escrow Agent all the estates, properties, rights, powers and trusts of such predecessor hereunder, and every predecessor Escrow Agent shall deliver all securities and money held by it to its successor. Should any transfer, assignment or instrument in writing from the City be required by any successor Escrow Agent for more fully and certainly vesting in such successor Escrow Agent the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor Escrow Agent, any such transfer, assignment and instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

Any corporation into which the Escrow Agent, or any successor to it of the duties and responsibilities created by this Agreement, may be merged or converted or with which it or any successor to it may be consolidated, or any corporation resulting from any merger, conversion, consolidation or reorganization to which the Escrow Agent or any successor to it may be a party, shall, if satisfactory to the City, be the successor Escrow Agent under this Agreement without the execution or filing of any paper or any other act on the part of the parties hereto, anything herein to the contrary notwithstanding.

14. Limitation on Liability of the City. The City shall not be liable for any acts of the Escrow Agent other than as directed pursuant to this Agreement.

15. Amendments to this Agreement. This Agreement is made for the benefit of the City and the holders from time to time of the Refunded Certificates and it shall not be repealed, revoked, altered or amended without the written consent of all such holders, the Escrow Agent and the City; provided, however, that the City and the Escrow Agent may, without the consent of, or notice to, such holders, enter into such agreements supplemental to this Agreement as shall not adversely affect the security of such holders and as shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Agreement;
- (b) to grant to, or confer upon, the Escrow Agent for the benefit of the holders of the Refunded Certificates, any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Agent; and
- (c) to subject to this Agreement additional funds, securities or properties.

The Escrow Agent shall be entitled to rely exclusively upon an unqualified opinion of Special Counsel with respect to compliance with this Section, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the holders of the Refunded Certificates, or that any instrument executed hereunder complies with the conditions and provisions of this Section.

16. Termination. This Agreement shall terminate when all transfers required to be made by the Escrow Agent under the provisions hereof shall have been made.

17. Notices. Except as otherwise provided herein, it shall be sufficient service of any notice, request, complaint, demand or other paper required by the Refunding Lease or this Agreement to be given to or filed with the City or the Escrow Agent if the same shall be duly mailed by first class mail addressed:

(a) To the City at:

City of Gladstone, Missouri
7010 N. Holmes
Gladstone, Missouri 64118
Attention: Finance Director

(b) To the Escrow Agent at:

BOKF, N.A.
2405 Grand Boulevard, Suite 840
Kansas City, Missouri 64108
Attention: Corporate Trust Department

18. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the City or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

19. Successors and Assigns. All of the covenants, promises and agreements in this Agreement contained by or on behalf of the City or the Escrow Agent shall be binding upon and inure to the benefit of their respective successors and assigns whether so expressed or not.

20. Governing Law. This Agreement shall be governed by the applicable laws of the State of Missouri.

21. Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

22. Electronic Transactions. The transactions described herein may be conducted and related documents may be sent, received or stored 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]

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed in their respective corporate names by their duly authorized officers or elected officials and their corporate seals to be hereunder affixed and attested, all as of the date first above written.

CITY OF GLADSTONE, MISSOURI

(Seal)

By _____
Mayor

ATTEST:

City Clerk

BOKF, N.A., as Escrow Agent

By _____
Name:
Title:

(Seal)

ATTEST:

Name:
Title:

**SCHEDULE 1
TO ESCROW TRUST AGREEMENT**

PAYMENT SCHEDULE FOR REFUNDED CERTIFICATES

<u>Certificate</u> <u>Payment Date</u>	<u>Principal Due</u>	<u>Principal Prepaid</u>	<u>Interest</u>	<u>Total</u> <u>Payment</u>
---	-----------------------------	---------------------------------	------------------------	--

**SCHEDULE 2
TO ESCROW TRUST AGREEMENT**

SCHEDULE OF ESCROWED SECURITIES

<u>Type of Security</u>	<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Maturity Value</u>	<u>Purchase Price</u>
------------------------------------	---------------------------------	---------------------------------	----------------------------------	----------------------------------

ESCROW AGREEMENT

This Escrow Agreement (the "Escrow Agreement"), dated as of December 22, 2017 and entered into among **CLAYTON HOLDINGS, LLC**, a limited liability company duly organized and existing under the laws of the State of Missouri, together with its successors and assigns, "Lessor"), **CITY OF GLADSTONE, MISSOURI**, a city of the third class and political subdivision duly organized and existing pursuant to the laws of the State of Missouri ("Lessee"), and **COMMERCE BANK**, a national banking association duly organized under the laws of the United States of America, as escrow agent (together with its successors and assigns, "Escrow Agent").

Name of Acquisition Fund: "City of Gladstone, Missouri Acquisition Fund-Schedule of Equipment No. 1"

Amount of Deposit into the Acquisition Fund: \$ _____

TERMS AND CONDITIONS

1. This Escrow Agreement relates to and is hereby made a part of the Schedule of Equipment No. 1 dated December 22, 2017 (the "Schedule") to that Master Equipment Lease Purchase Agreement dated as of December 22, 2017 (the "Agreement," and together with the Schedule, the "Lease"), between Lessor and Lessee.

2. Except as otherwise defined herein, all terms defined in the Agreement will have the same meaning for the purposes of this Escrow Agreement as in the Agreement.

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

4. There is hereby established in the custody of Escrow Agent a special trust fund designated as set forth above (the "Acquisition Fund") to be held and administered by Escrow Agent in trust for the benefit of Lessor and Lessee in accordance with this Escrow Agreement.

5. Lessor will deposit in the Acquisition Fund the amount specified above. Moneys held by Escrow Agent hereunder will be invested and reinvested by Escrow Agent upon written order of an Authorized Lessee Representative, in accordance with the Federal Tax Certificate executed by Lessee as of the date hereof, in Qualified Investments (as defined below) maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed. If an Authorized Lessee Representative fails to timely direct the investment of any moneys held hereunder, Escrow Agent will invest and reinvest such moneys in Qualified Investments described in **Section 6(vi)** below. Such investments will be held by Escrow Agent in the Acquisition Fund; any interest and gain earned on such investments will be deposited in the Acquisition Fund, and any losses on such investments will be charged to the Acquisition Fund. Escrow Agent may act as purchaser or agent in the making or disposing of any investment.

6. "Qualified Investments" means, to the extent the same are at the time legal for investment of the funds being invested: (i) direct general obligations of the United States of America; (ii) obligations

the timely payment of principal of and interest on which is fully and unconditionally guaranteed by the United States of America; (iii) general obligations of the agencies and instrumentalities of the United States of America acceptable to Lessor; (iv) certificates of deposit, time deposits or demand deposits with any bank or savings institution including Escrow Agent or any affiliate thereof, provided that such certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are fully secured by obligations described in (i), (ii) or (iii) above; or (v) repurchase agreements with any state or national bank or trust company, including Escrow Agent or any affiliate thereof, that are secured by obligations of the type described in (i), (ii) or (iii) above, provided that such collateral is free and clear of claims of third parties and that Escrow Agent or a third party acting solely as agent for Escrow Agent has possession of such collateral and a perfected first security interest in such collateral; or (vi) money market mutual funds that are invested in securities described in (i), (ii) or (iii) and that are rated "Aaa" by Moody's Investors Service or "AAAm-G" by Standard & Poor's Ratings Services or the comparable rating by Fitch IBCA, Inc.

7. Moneys in the Acquisition Fund will be used to pay for the cost of acquisition of the Equipment listed in the Lease and, if requested by Lessee, to pay certain costs of entering into the Lease. Such payment will be made from the Acquisition Fund upon presentation to Escrow Agent of one or more properly executed Payment Request and Acceptance Certificates, a form of which is attached as **Exhibit A**, executed by Lessee and approved by Lessor, together with an invoice for the cost of the acquisition of said Equipment and a written approval by Lessor of the Vendor to be paid, or in the event that certain costs of entering into the Lease are described in the Payment Request and Acceptance Certificate, an invoice specifying the amount of such costs. In making any disbursement pursuant to this **Section 7**, Escrow Agent may conclusively rely as to the completeness and accuracy of all statements in such Payment Request and Acceptance Certificate, and Escrow Agent will not be required to make any inquiry, inspection or investigation in connection therewith. The approval of each Payment Request and Acceptance Certificate by Lessor will constitute unto Escrow Agent an irrevocable determination by Lessor that all conditions precedent to the payment of the amounts set forth therein have been completed.

8. The Acquisition Fund will terminate upon the occurrence of the earlier of (a) the presentation of a proper Payment Request and Acceptance Certificate and the Final Acceptance Certificate, a form of which is attached as **Exhibit B**, properly executed by Lessee, or (b) the presentation of written notification by Lessor, or, if Lessor has assigned its interest under the Lease, then the assignees or subassignees of all of Lessor's interest under the Lease or an Agent on their behalf, that the Lease has been terminated pursuant to **Section 3.03 (a) or (c)** of the Agreement. Upon termination as described in clause (a) of this paragraph, any amount remaining in the Acquisition Fund will be used to prepay the principal portion of Rental Payments unless Lessor directs that payment of such amount be made in such other manner directed by Lessor that, in the opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes. If any such amount is used to prepay principal, the Rental Payment Schedule attached to the Lease will be revised accordingly as specified by Lessor. Upon termination as described in clause (b) of this paragraph, any amount remaining in the Acquisition Fund will immediately be paid to Lessor or to any assignees or subassignees of Lessor's interest in this Lease.

9. Escrow Agent may at any time resign by giving at least 30 days' written notice to Lessee and Lessor, but such resignation will not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of

any resignation or removal of Escrow Agent, a successor Escrow Agent will be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent will indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent. Thereupon such successor Escrow Agent will, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of Escrow Agent under this Escrow Agreement and the predecessor Escrow Agent will deliver all moneys and securities held by it under this Escrow Agreement to such successor Escrow Agent whereupon the duties and obligations of the predecessor Escrow Agent will cease and terminate. If a successor Escrow Agent has not been so appointed with 90 days of such resignation or removal, Escrow Agent may petition a court of competent jurisdiction to have a successor Escrow Agent appointed.

10. Any corporation or association into which Escrow Agent may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, will be and become successor Escrow Agent hereunder and will be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

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

12. Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been duly authorized to do so. Escrow Agent will not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of this Escrow Agreement other than its own execution thereof or any instrument deposited with it, nor as to the identity, authority or right of any person executing the same; and its duties hereunder will be limited to those specifically provided herein.

13. Unless Escrow Agent is guilty of negligence or willful misconduct with regard to its duties hereunder, Lessee, to the extent permitted by law, and Lessor jointly and severally hereby agree to indemnify Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Escrow Agreement; and in connection therewith, to indemnify Escrow Agent against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

14. The aggregate amount of the costs, fees, and expenses of Escrow Agent in connection with the creation of the escrow described in and created by this Escrow Agreement and in carrying out any of the duties, terms or provisions of this Escrow Agreement is a one-time fee in the amount of \$-0-, to be paid by Lessee concurrently with the execution and delivery of this Escrow Agreement.

Notwithstanding the preceding paragraph, Escrow Agent will be entitled to reimbursement from Lessee of reasonable out-of-pocket, legal or extraordinary expenses incurred in carrying out the duties, terms or provisions of this Escrow Agreement. Claims for such reimbursement may be made to Lessee

and in no event will such reimbursement be made from funds held by Escrow Agent pursuant to this Escrow Agreement. Escrow Agent agrees that it will not assert any lien whatsoever on any of the money or Qualified Investments on deposit in the Escrow Fund for the payment of fees and expenses for services rendered by Escrow Agent under this Escrow Agreement or otherwise.

15. If Lessee, Lessor or Escrow Agent are in disagreement about the interpretation of the Lease or this Escrow Agreement, or about the rights and obligations, or the propriety of any action contemplated by Escrow Agent hereunder, Escrow Agent may, but will not be required to, file an appropriate civil action to resolve the disagreement. Escrow Agent will be indemnified by Lessor and Lessee, to the extent permitted by law, for all costs, including reasonable attorneys' fees and expenses, in connection with such civil action, and will be fully protected in suspending all or part of its activities under this Escrow Agreement until a final judgment in such action is received.

16. Escrow Agent may consult with counsel of its own choice and will have full and complete authorization and protection for any action or non-action taken by Escrow Agent in accordance with the opinion of such counsel. Escrow Agent will otherwise not be liable for any mistakes of facts or errors of judgment, or for any acts or omissions of any kind unless caused by its negligence or willful misconduct.

17. This Escrow Agreement will be governed by and construed in accordance with the laws of the state in which Escrow Agent is located.

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

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

20. This Escrow Agreement may be executed in several counterparts, each of which so executed will be an original.

21. The parties agree that the transaction described herein may be conducted and related documents may be stored 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.]

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

CLAYTON HOLDINGS, LLC
LESSOR

By: _____
Title: _____

CITY OF GLADSTONE, MISSOURI
LESSEE

By: _____
Title: Mayor

COMMERCE BANK
ESCROW AGENT

By: _____
Title: _____

EXHIBIT A

FORM OF PAYMENT REQUEST AND ACCEPTANCE CERTIFICATE

To: Commerce Bank, as Escrow Agent
1000 Walnut Street, Mail Stop BB16-5
Kansas City, MO 64106
Attention: Corporate Trust Department

Re: City of Gladstone, Missouri Acquisition Fund established by the Escrow Agreement, dated as of December 22, 2017 (the "Escrow Agreement"), among Clayton Holdings, LLC, as lessor ("Lessor"), City of Gladstone, Missouri ("Lessee") and Commerce Bank, as Escrow Agent (the "Escrow Agent")

Ladies and Gentlemen:

The Escrow Agent is hereby requested to pay from the Acquisition Fund to the person or corporation designated below as Payee, the sum set forth below in payment of a portion or all of the cost of the acquisition of the equipment, costs incurred in entering into the Lease described below or the interest portions of Rental Payment(s) described below. The amount shown below is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition of the equipment, costs incurred in entering into the Lease described below or payment of the interest portions of Rental Payment(s) and has not formed the basis of any prior request for payment.

The equipment or costs described below are (a) part or all of the "Equipment" that is listed in Schedule of Equipment No. 1 dated December 22, 2017 (the "Schedule"), to that certain Master Equipment Lease Purchase Agreement dated as of December 22, 2017 (the "Agreement," and together with the Schedule, the "Lease"), described in the Escrow Agreement or (b) costs incurred in entering into the Lease.

<u>Quantity</u>	<u>Serial Number</u>	<u>Item</u>	<u>Amount</u>
-----------------	----------------------	-------------	---------------

Payee: _____

Lessee hereby certifies and represents to and agrees with Lessor and Escrow Agent as follows:

- (1) The Equipment described above (a) has been delivered, installed and accepted on the date hereof, or (b) the amount requested is a down payment currently due on said Equipment.
- (2) If (1)(a) is applicable, Lessee has conducted such inspection and/or testing of said Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts said Equipment for all purposes.

- (3) If (1)(a) is applicable, Lessee is currently maintaining the insurance coverage required by **Section 7.02** of the Agreement.

Lessee hereby certifies and represents to Lessor and Escrow Agent that no event or condition that constitutes, or with notice or lapse of time or both would constitute, an Event of Default (as such term is defined in the Agreement) exists at the date hereof.

Dated: _____, 20____.

CITY OF GLADSTONE, MISSOURI
LESSEE

By: _____
Title: _____

APPROVED:

CLAYTON HOLDINGS, LLC
LESSOR

By: _____
Title: _____

EXHIBIT B

FINAL ACCEPTANCE CERTIFICATE

[THIS CERTIFICATE IS TO BE EXECUTED ONLY WHEN ALL EQUIPMENT
HAS BEEN ACCEPTED]

The undersigned hereby certifies that the equipment described above, together with the equipment described in and accepted by Payment Request and Acceptance Certificates previously filed by Lessee with Escrow Agent and Lessor pursuant to the Escrow Agreement, constitutes all of the Equipment subject to the Lease.

Dated: _____

CITY OF GLADSTONE, MISSOURI
LESSEE

By: _____
Title: _____

EXHIBIT C

**INCUMBENCY CERTIFICATE AND
MONEY MARKET ACCOUNT AUTHORIZATION FORM**

[See attached.]

ESCROW AGREEMENT

This Escrow Agreement (the "Escrow Agreement"), dated as of December 22, 2017 and entered into among **CLAYTON HOLDINGS, LLC**, a limited liability company duly organized and existing under the laws of the State of Missouri, together with its successors and assigns, "Lessor"), **CITY OF GLADSTONE, MISSOURI**, a city of the third class and political subdivision duly organized and existing pursuant to the laws of the State of Missouri ("Lessee"), and **COMMERCE BANK**, a national banking association duly organized under the laws of the United States of America, as escrow agent (together with its successors and assigns, "Escrow Agent").

Name of Acquisition Fund: "City of Gladstone, Missouri Acquisition Fund-Schedule of Equipment No. 1"

Amount of Deposit into the Acquisition Fund: \$ _____

TERMS AND CONDITIONS

1. This Escrow Agreement relates to and is hereby made a part of the Schedule of Equipment No. 1 dated December 22, 2017 (the "Schedule") to that Master Equipment Lease Purchase Agreement dated as of December 22, 2017 (the "Agreement," and together with the Schedule, the "Lease"), between Lessor and Lessee.

2. Except as otherwise defined herein, all terms defined in the Agreement will have the same meaning for the purposes of this Escrow Agreement as in the Agreement.

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

4. There is hereby established in the custody of Escrow Agent a special trust fund designated as set forth above (the "Acquisition Fund") to be held and administered by Escrow Agent in trust for the benefit of Lessor and Lessee in accordance with this Escrow Agreement.

5. Lessor will deposit in the Acquisition Fund the amount specified above. Moneys held by Escrow Agent hereunder will be invested and reinvested by Escrow Agent upon written order of an Authorized Lessee Representative, in accordance with the Federal Tax Certificate executed by Lessee as of the date hereof, in Qualified Investments (as defined below) maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed. If an Authorized Lessee Representative fails to timely direct the investment of any moneys held hereunder, Escrow Agent will invest and reinvest such moneys in Qualified Investments described in **Section 6(vi)** below. Such investments will be held by Escrow Agent in the Acquisition Fund; any interest and gain earned on such investments will be deposited in the Acquisition Fund, and any losses on such investments will be charged to the Acquisition Fund. Escrow Agent may act as purchaser or agent in the making or disposing of any investment.

6. "Qualified Investments" means, to the extent the same are at the time legal for investment of the funds being invested: (i) direct general obligations of the United States of America; (ii) obligations

the timely payment of principal of and interest on which is fully and unconditionally guaranteed by the United States of America; (iii) general obligations of the agencies and instrumentalities of the United States of America acceptable to Lessor; (iv) certificates of deposit, time deposits or demand deposits with any bank or savings institution including Escrow Agent or any affiliate thereof, provided that such certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are fully secured by obligations described in (i), (ii) or (iii) above; or (v) repurchase agreements with any state or national bank or trust company, including Escrow Agent or any affiliate thereof, that are secured by obligations of the type described in (i), (ii) or (iii) above, provided that such collateral is free and clear of claims of third parties and that Escrow Agent or a third party acting solely as agent for Escrow Agent has possession of such collateral and a perfected first security interest in such collateral; or (vi) money market mutual funds that are invested in securities described in (i), (ii) or (iii) and that are rated "Aaa" by Moody's Investors Service or "AAAm-G" by Standard & Poor's Ratings Services or the comparable rating by Fitch IBCA, Inc.

7. Moneys in the Acquisition Fund will be used to pay for the cost of acquisition of the Equipment listed in the Lease and, if requested by Lessee, to pay certain costs of entering into the Lease. Such payment will be made from the Acquisition Fund upon presentation to Escrow Agent of one or more properly executed Payment Request and Acceptance Certificates, a form of which is attached as **Exhibit A**, executed by Lessee and approved by Lessor, together with an invoice for the cost of the acquisition of said Equipment and a written approval by Lessor of the Vendor to be paid, or in the event that certain costs of entering into the Lease are described in the Payment Request and Acceptance Certificate, an invoice specifying the amount of such costs. In making any disbursement pursuant to this **Section 7**, Escrow Agent may conclusively rely as to the completeness and accuracy of all statements in such Payment Request and Acceptance Certificate, and Escrow Agent will not be required to make any inquiry, inspection or investigation in connection therewith. The approval of each Payment Request and Acceptance Certificate by Lessor will constitute unto Escrow Agent an irrevocable determination by Lessor that all conditions precedent to the payment of the amounts set forth therein have been completed.

8. The Acquisition Fund will terminate upon the occurrence of the earlier of (a) the presentation of a proper Payment Request and Acceptance Certificate and the Final Acceptance Certificate, a form of which is attached as **Exhibit B**, properly executed by Lessee, or (b) the presentation of written notification by Lessor, or, if Lessor has assigned its interest under the Lease, then the assignees or subassignees of all of Lessor's interest under the Lease or an Agent on their behalf, that the Lease has been terminated pursuant to **Section 3.03 (a) or (c)** of the Agreement. Upon termination as described in clause (a) of this paragraph, any amount remaining in the Acquisition Fund will be used to prepay the principal portion of Rental Payments unless Lessor directs that payment of such amount be made in such other manner directed by Lessor that, in the opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes. If any such amount is used to prepay principal, the Rental Payment Schedule attached to the Lease will be revised accordingly as specified by Lessor. Upon termination as described in clause (b) of this paragraph, any amount remaining in the Acquisition Fund will immediately be paid to Lessor or to any assignees or subassignees of Lessor's interest in this Lease.

9. Escrow Agent may at any time resign by giving at least 30 days' written notice to Lessee and Lessor, but such resignation will not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of

any resignation or removal of Escrow Agent, a successor Escrow Agent will be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent will indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent. Thereupon such successor Escrow Agent will, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of Escrow Agent under this Escrow Agreement and the predecessor Escrow Agent will deliver all moneys and securities held by it under this Escrow Agreement to such successor Escrow Agent whereupon the duties and obligations of the predecessor Escrow Agent will cease and terminate. If a successor Escrow Agent has not been so appointed with 90 days of such resignation or removal, Escrow Agent may petition a court of competent jurisdiction to have a successor Escrow Agent appointed.

10. Any corporation or association into which Escrow Agent may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, will be and become successor Escrow Agent hereunder and will be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

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

12. Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been duly authorized to do so. Escrow Agent will not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of this Escrow Agreement other than its own execution thereof or any instrument deposited with it, nor as to the identity, authority or right of any person executing the same; and its duties hereunder will be limited to those specifically provided herein.

13. Unless Escrow Agent is guilty of negligence or willful misconduct with regard to its duties hereunder, Lessee, to the extent permitted by law, and Lessor jointly and severally hereby agree to indemnify Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Escrow Agreement; and in connection therewith, to indemnify Escrow Agent against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

14. The aggregate amount of the costs, fees, and expenses of Escrow Agent in connection with the creation of the escrow described in and created by this Escrow Agreement and in carrying out any of the duties, terms or provisions of this Escrow Agreement is a one-time fee in the amount of \$-0-, to be paid by Lessee concurrently with the execution and delivery of this Escrow Agreement.

Notwithstanding the preceding paragraph, Escrow Agent will be entitled to reimbursement from Lessee of reasonable out-of-pocket, legal or extraordinary expenses incurred in carrying out the duties, terms or provisions of this Escrow Agreement. Claims for such reimbursement may be made to Lessee

and in no event will such reimbursement be made from funds held by Escrow Agent pursuant to this Escrow Agreement. Escrow Agent agrees that it will not assert any lien whatsoever on any of the money or Qualified Investments on deposit in the Escrow Fund for the payment of fees and expenses for services rendered by Escrow Agent under this Escrow Agreement or otherwise.

15. If Lessee, Lessor or Escrow Agent are in disagreement about the interpretation of the Lease or this Escrow Agreement, or about the rights and obligations, or the propriety of any action contemplated by Escrow Agent hereunder, Escrow Agent may, but will not be required to, file an appropriate civil action to resolve the disagreement. Escrow Agent will be indemnified by Lessor and Lessee, to the extent permitted by law, for all costs, including reasonable attorneys' fees and expenses, in connection with such civil action, and will be fully protected in suspending all or part of its activities under this Escrow Agreement until a final judgment in such action is received.

16. Escrow Agent may consult with counsel of its own choice and will have full and complete authorization and protection for any action or non-action taken by Escrow Agent in accordance with the opinion of such counsel. Escrow Agent will otherwise not be liable for any mistakes of facts or errors of judgment, or for any acts or omissions of any kind unless caused by its negligence or willful misconduct.

17. This Escrow Agreement will be governed by and construed in accordance with the laws of the state in which Escrow Agent is located.

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

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

20. This Escrow Agreement may be executed in several counterparts, each of which so executed will be an original.

21. The parties agree that the transaction described herein may be conducted and related documents may be stored 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.]

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

CLAYTON HOLDINGS, LLC
LESSOR

By: _____
Title: _____

CITY OF GLADSTONE, MISSOURI
LESSEE

By: _____
Title: Mayor

COMMERCE BANK
ESCROW AGENT

By: _____
Title: _____

EXHIBIT A

FORM OF PAYMENT REQUEST AND ACCEPTANCE CERTIFICATE

To: Commerce Bank, as Escrow Agent
1000 Walnut Street, Mail Stop BB16-5
Kansas City, MO 64106
Attention: Corporate Trust Department

Re: City of Gladstone, Missouri Acquisition Fund established by the Escrow Agreement, dated as of December 22, 2017 (the "Escrow Agreement"), among Clayton Holdings, LLC, as lessor ("Lessor"), City of Gladstone, Missouri ("Lessee") and Commerce Bank, as Escrow Agent (the "Escrow Agent")

Ladies and Gentlemen:

The Escrow Agent is hereby requested to pay from the Acquisition Fund to the person or corporation designated below as Payee, the sum set forth below in payment of a portion or all of the cost of the acquisition of the equipment, costs incurred in entering into the Lease described below or the interest portions of Rental Payment(s) described below. The amount shown below is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition of the equipment, costs incurred in entering into the Lease described below or payment of the interest portions of Rental Payment(s) and has not formed the basis of any prior request for payment.

The equipment or costs described below are (a) part or all of the "Equipment" that is listed in Schedule of Equipment No. 1 dated December 22, 2017 (the "Schedule"), to that certain Master Equipment Lease Purchase Agreement dated as of December 22, 2017 (the "Agreement," and together with the Schedule, the "Lease"), described in the Escrow Agreement or (b) costs incurred in entering into the Lease.

<u>Quantity</u>	<u>Serial Number</u>	<u>Item</u>	<u>Amount</u>
-----------------	----------------------	-------------	---------------

Payee: _____

Lessee hereby certifies and represents to and agrees with Lessor and Escrow Agent as follows:

- (1) The Equipment described above (a) has been delivered, installed and accepted on the date hereof, or (b) the amount requested is a down payment currently due on said Equipment.
- (2) If (1)(a) is applicable, Lessee has conducted such inspection and/or testing of said Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts said Equipment for all purposes.

- (3) If (1)(a) is applicable, Lessee is currently maintaining the insurance coverage required by **Section 7.02** of the Agreement.

Lessee hereby certifies and represents to Lessor and Escrow Agent that no event or condition that constitutes, or with notice or lapse of time or both would constitute, an Event of Default (as such term is defined in the Agreement) exists at the date hereof.

Dated: _____, 20__.

CITY OF GLADSTONE, MISSOURI
LESSEE

By: _____
Title: _____

APPROVED:

CLAYTON HOLDINGS, LLC
LESSOR

By: _____
Title: _____

EXHIBIT B

FINAL ACCEPTANCE CERTIFICATE

[THIS CERTIFICATE IS TO BE EXECUTED ONLY WHEN ALL EQUIPMENT
HAS BEEN ACCEPTED]

The undersigned hereby certifies that the equipment described above, together with the equipment described in and accepted by Payment Request and Acceptance Certificates previously filed by Lessee with Escrow Agent and Lessor pursuant to the Escrow Agreement, constitutes all of the Equipment subject to the Lease.

Dated: _____

CITY OF GLADSTONE, MISSOURI
LESSEE

By: _____
Title: _____

EXHIBIT C

**INCUMBENCY CERTIFICATE AND
MONEY MARKET ACCOUNT AUTHORIZATION FORM**

[See attached.]