

RESOLUTION NO. R-14-66

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE PURCHASE AGREEMENT WITH CLAYTON HOLDINGS, LLC FOR \$1,129,015.95.

WHEREAS; the City of Gladstone, Missouri desires to replace certain existing capital equipment, and has budgeted for such purpose in the FY15 Budget; and

WHEREAS, three (3) quotes were received for certain capital equipment, and the quoted interest rate proposed by Clayton Holdings, LLC at 2.15% has been determined to be the best bid; and


WHEREAS, the City Council finds that it is in the best interest of the City to authorize the City Manager to negotiate and execute a lease/purchase agreement with the Clayton Holdings for the purchase of such equipment.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

THAT, the City Manager of the City of Gladstone, Missouri is hereby authorized to negotiate and execute certain Equipment Lease/Option to Purchase Agreement expected to close on September 24, 2014, between Clayton Holdings, LLC and the City of Gladstone, Missouri, for lease/purchase amount of \$1,129,015.95 plus applicable interest.


FURTHER THAT funds for such purpose are authorized from the General Fund and CWSS Fund.

INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 22ND DAY OF SEPTEMBER, 2014.



J. Brian Hill, Mayor

Attest:



Ruth Bocchino, City Clerk



7010 N Holmes Gladstone, Missouri 64118 816-436-2200 Fax 816-436-2228 Gladstone.mo.us

Sept. 15, 2014

TO: Kirk Davis – City Manager
FROM: Debra Daily – Director of Finance DD
RE: Capital Equipment Replacement Financing

Finance requested rate quotes to lease/purchase capital equipment totaling \$1,129,015.95. This proposed lease purchase was requested by Finance and approved during the FY15 Budget process with the objective of locking historically low financing rates for capital equipment that was scheduled for replacement over the next three years in the General Fund and the Combined Water and Wastewater Fund (CWSS).

Finance requested bids based on a seven year maturity for equipment with anticipated lives of at least 10 years. The requested lease was to be structured with payments in arrears with first debt service payment to be made in July of 2015 or FY16. This would coincide with debt maturities in FY15 in General Fund that would accommodate debt service payments beginning in FY16.

Three vendors were requested to provide quotes. The following analysis indicates that Clayton Holdings, LLC, an equity subsidiary of Commerce Bank, had the low bid. Finance recommends that the lease be secured through Clayton Holdings, LLC. Payments are structured to result in lowest possible interest costs over the term of the lease. The City would like to thank everyone that submitted a bid for their time and expertise. We appreciated the opportunity to work with each bank on this rate quote.

A listing of the bid quotes (Exhibit 1) as well a summary of the capital equipment (Exhibit 2) to be purchased is provided for your reference. Also attached is a resolution authorizing the City Manager to execute a lease/purchase agreement with the Clayton Holdings, LLC in the amount of \$1,129,015.95. If you have any questions, I will be glad to address them.

Exhibit 1**Capital Equipment****Lease Financing Rate Analysis**

	General Fund	CWSS	Total
Acquisition Cost	\$708,942.95	\$420,073.00	\$1,129,015.95

Vendor	Bid Rate (NBQ)	Quoted Fees
Clayton Holdings (Commerce Bank)	2.15% *	\$250
First Bank	3.75%	0
Lawson Bank	3.00%	\$950

* Best bid

Exhibit 2**Capital Equipment for Lease**

Description	Vendor	Purchase Price (all inclusive*)
Half-ton 4x2 Truck	Gladstone Dodge	\$20,100
Half-ton 4x4 Truck	Gladstone Dodge	\$33,400
1-ton 4x2 Truck with Utility Bed	Gladstone Dodge	\$34,741
1-ton 4x4 with Plow and Spreader	Gladstone Dodge	\$46,950
6 Passenger Minivan	Gladstone Dodge	\$21,100
Special Service SUV	Shawnee Mission Ford	\$22,877
Backhoe (CWSS)	Foley Equipment	\$112,239
Skid Loader	Foley Equipment	\$61,344
Street Sweeper	Key Equipment	\$218,496.95
Vactor (CWSS)	Key Equipment	\$307,834
Dump Truck with Plow and Spreader (2)	KC Freightliner	\$249,934
	TOTAL:	\$1,129,015.95

*Includes trade-in and all associated equipment

File copy



Clayton Holdings, LLC

8000 Forsyth Boulevard, Suite 510
St. Louis, Missouri 63105-1797

September 25, 2014

Debra Daily, Director of Finance
City of Gladstone, Missouri
7010 North Holmes
Gladstone, MO 64118

RE: State & Municipal Lease/Purchase Agreement No. 5000161-001, dated September 24, 2014.

Dear Debra:

We would like to thank you for choosing Clayton Holdings, LLC for your recent equipment financing.

For your files, we have enclosed copies or originals (as stated below) of the various documents executed by the City and Commerce Bank in connection with the above referenced transaction.

- Municipal Lease with all Exhibits
- Exhibit C payment schedule

Invoices will be sent to you approximately 15 days prior to the payment due date as shown on Exhibit C.

Please be aware: all payments will be due on the date indicated on Exhibit C, above. You should contact us immediately if this information differs from your understanding of our agreement. According to the agreement and our records, your first payment in the amount of \$174,776.69 is due July 15, 2015.

We appreciate having been given the opportunity to serve you and would like to do so again in the future. Should you have any questions regarding your account, please contact David Cleveland at 314.746.3752 and he will be delighted to assist you.

Very truly yours,

David Cleveland
Municipal Contract Administrator
Phone: 314.746.3752
david.cleveland@commercebank.com

Frank D. Hill
Director, Tax Exempt-Leasing
Phone: 785.587.1541
frank.hill@commercebank.com



CLAYTON HOLDINGS, LLC

STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT

Lease Number: 5000161-001

This State and Municipal Lease/Purchase Agreement (the "Lease") is made and entered into on this, the 24th day of September, 2014, by and between Clayton Holdings, LLC with offices at 8000 Forsyth Boulevard, Suite 510, Saint Louis, Missouri 63105 (herein called the "Lessor"), and the City of Gladstone, Missouri, with its principal address at 7010 North Holmes, Gladstone, Missouri 64118 (herein called the "Lessee"), wherein it is agreed as follows:

1. **LEASE OF EQUIPMENT:** Lessee hereby requests Lessor to acquire the equipment described in Exhibit A attached hereto and made a part hereof. Subject to the terms and conditions hereof, Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the equipment described in Exhibit A, with all replacement parts, repairs, additions and accessories incorporated therein or affixed thereto (herein collectively called the "Equipment").
2. **DELIVERY AND ACCEPTANCE:** Lessee agrees to order the Equipment from the supplier of such Equipment, but will not be liable for specific performance of this Lease or for damages if for any reason the supplier delays or fails to fill the order. Lessee will cause the Equipment to be delivered at the location specified in Exhibit A (the "Equipment Location"). Lessee will pay all transportation and other costs, if any, incurred in connection with the delivery and installation of the Equipment. Any delay in such delivery will not affect the validity of this Lease. Lessee will accept the Equipment as soon as it has been delivered and is operational, or as soon as any manufacturer or vendor preacceptance test period has expired. Lessee will have no more than thirty (30) days from the date of delivery of the Equipment to accept such Equipment. In the event the Equipment is not accepted by Lessee within thirty (30) days from the date of its delivery, Lessor, at Lessor's sole option, will have the right to terminate this Lease. Lessee will evidence its acceptance of the Equipment by executing and delivering to Lessor a delivery and acceptance certificate in the form of Exhibit B attached hereto and made a part hereof (the "Acceptance Certificate"). Lessee hereby authorizes the Lessor to add to this Lease and to any other description of the Equipment the serial number of each item of Equipment when available.
3. **TERM:** This Lease will become effective upon the execution hereof by Lessee and Lessor. The initial term of this Lease will commence on the earlier of the date Lessee executes the Acceptance Certificate or the date funds sufficient to purchase the Equipment are deposited with a bank or trust company in an escrow fund (the "Start Date") and will extend through the end of Lessee's fiscal year containing the Start Date. Unless earlier terminated as expressly provided for in this Lease, the term of this Lease will be automatically renewed on a year-to-year basis for the number of annual fiscal periods necessary to comprise the lease term as set forth in Exhibit C attached hereto and made a part hereof (the "Lease Term").
4. **RENT:** Lessee agrees to pay Lessor or any Assignee (as defined in Section 22 below), the rental payments for the Equipment as set forth in Exhibit C (the "Rental Payments"). A portion of each Rental Payment is paid as and represents the payment of interest as set forth in Exhibit C. The Rental Payments will be payable without notice or demand, at the office of Lessor (or such other place as Lessor or any Assignee may designate in writing, from time to time) and will commence on the Start Date or as otherwise set forth in Exhibit C, and the remaining Rental Payments will be payable on the same day of each consecutive month or quarter or semiannual or annual period thereafter (as designated in Exhibit C) for the duration of the Lease Term. Any notice, invoicing, purchase orders, quotations or other forms or procedures requested by Lessee in connection with payment will be fully explained and provided to Lessor or any Assignee sufficiently in advance of the payment due date for the completion thereof by Lessor or any Assignee prior to such payment date, but none of the foregoing will be a condition to Lessee's obligation to make any such payment. If Lessee fails to pay any monthly rental payment or any other sums under the Lease within ten (10) days when the same becomes due, Lessee shall pay to Lessor (in addition to and not in lieu of other rights of Lessor) a late charge equal to the greater of five (5%) percent of such delinquent amount or Twenty-Five Dollars (\$25.00), but in any event not more than the maximum permitted by law. Such late charge shall be payable by Lessee upon demand by Lessor and shall be deemed rent hereunder. Lessee acknowledges and agrees that the late charge (i) does not constitute interest, (ii) is an estimate of the costs Lessor will incur as a result of the late payment and (iii) is reasonable in amount. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder will constitute a current expense of Lessee and will not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee. EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 8 HEREOF, THE RENTAL PAYMENTS SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND WILL NOT BE SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER.

Notwithstanding the foregoing, in the event that Lessee, by its use of the Equipment or by its actions or omissions or by any means whatsoever, causes any interest payments as set forth in Exhibit C to be included in Lessor's gross income, Lessee agrees that the interest portion of the Rental Payments on Exhibit C will be adjusted commencing with the first day of the next

succeeding fiscal year of the Lessee, but only if this Lease is renewed for such fiscal year, and thereafter, so that Lessor, its Assignees and any participants with such, will be in the same after-tax position they would have been in had such payment been excluded from the gross income of Lessor, its Assignees and any participants with such under Section 103 of the Code; provided that in no event will the effective interest rate hereunder ever exceed 10% per year.

5. **AUTHORITY AND AUTHORIZATION:** Lessee represents, warrants and covenants that (a) it will do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence, and (ii) subject to Section 8 hereof, the Lease; (b) it has complied with all bidding and budgeting requirements where necessary and by due notification has presented this Lease for approval and adoption as a valid obligation on its part and that all requirements have been met and procedures have been followed to ensure the enforceability of the Lease; (c) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal year period; (d) no event has occurred and no condition exists which, upon the execution of this Lease or with notice or the passage of time or both, would constitute a default under any debt, revenue or purchase obligation which it has issued or to which it is a party (the "Obligation") nor has it been in default under any Obligation at any time during the past five (5) years, and (e) no lease, rental agreement or contract for purchase, to which Lessee has been a party, at any time during the past five (5) years, has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal period.
6. **LESSEE CERTIFICATION:** Lessee warrants and covenants that (i) it is a state, or a political subdivision thereof, within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and the related regulations and rulings thereunder; (ii) subject to Section 8 hereof, Lessee's obligation under this Lease constitutes an enforceable obligation issued by or on behalf of a state, or political subdivision thereof, such that any interest income derived under this Lease and due Lessor or its Assignee, including, but not limited to, those amounts designated as interest in Exhibit C, will not be includable in the gross income of Lessor, its Assignee or any participants with such for the purposes of federal income taxation; (iii) subject to Section 8 hereof, this Lease represents a valid deferred payment obligation of Lessee for the amount herein set forth; (iv) Lessee has the legal capacity to enter into this Lease and is not in contravention of any state, county, district, city or town statute, rule, regulation or other governmental provision; (v) during the Lease Term, the Equipment will not be used in a trade or business of any other person or entity; (vi) Lessee will complete and file on a timely basis, Internal Revenue Service form 8038G or 8038GC, as appropriate, in the manner set forth in Section 149(e) of the Code; and (vii) Lessee will not take any action or permit the omission of any action reasonably within its control which action or omission will cause the interest portion of any Rental Payment hereunder to be includable in gross income for federal income taxation purposes.
7. **APPROPRIATIONS AND ESSENTIAL USE:** Lessee reasonably believes that sufficient funds can be obtained to make all Rental Payments during the Lease Term. The responsible financial officer of Lessee will do all things lawfully within his or her power to obtain funds from which the Rental Payments, including any Rental Payments required by Section 4 hereof, may be made, including making provisions for such payments, to the extent necessary, in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend this Lease for any subsequent annual fiscal period is solely within the discretion of the then current governing body of Lessee. It is Lessee's current intent to make the Rental Payments for the full Lease Term if funds are legally available therefore, and in that regard Lessee represents that (a) the use of the Equipment is essential to its proper, efficient, and economic functioning or to the services that it provides to its citizens; (b) Lessee has an immediate need for and expects to make immediate use of substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future; and (c) the Equipment will be used by the Lessee only for the purpose of performing one or more of its governmental or proprietary functions consistent with the permissible scope of its authority.
8. **NONAPPROPRIATION OF FUNDS:** In the event no funds or insufficient funds are appropriated and budgeted or otherwise made available for Rental Payments, including any Rental Payments required by Section 4 hereof, for any fiscal period in which the Rental Payments for the Equipment are due under this Lease, then, without penalty, liability or expense to Lessee, this Lease will thereafter terminate and be rendered null and void on the last day of the fiscal period for which appropriations were made, except as to (i) the portions of the Rental Payments herein agreed upon for which funds have been appropriated and budgeted or are otherwise available and (ii) Lessee's other obligations and liabilities under this Lease relating to, accruing or arising prior to such termination. Lessee will, not less than sixty (60) days prior to the end of such applicable fiscal period, in writing, notify Lessor and any Assignee of such occurrence, but failure to give such notice will not prevent such termination. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its Assignee on the day of such termination, packed for shipment in accordance with manufacturer's specifications and eligible for manufacturer's maintenance, and freight prepaid and insured to any location in the continental United States designated by Lessor, all at Lessee's expense. Lessor or its Assignee may exercise all available legal and equitable rights and remedies in retaking possession of the Equipment.
9. **EXCLUSION OF WARRANTIES; LIMITATIONS OF LIABILITY; DISCLAIMER OF CONSEQUENTIAL DAMAGES:** LESSEE HAS SELECTED BOTH THE EQUIPMENT AND THE VENDOR(S) FROM WHOM LESSOR IS TO PURCHASE THE EQUIPMENT IN RELIANCE HEREON. LESSEE ACKNOWLEDGES AND AGREES THAT THE EQUIPMENT IS OF A SIZE, DESIGN AND CAPACITY SELECTED BY LESSEE, THAT LESSOR IS NOT A MANUFACTURER, VENDOR, DISTRIBUTOR OR LICENSOR OF SUCH EQUIPMENT, AND THAT LESSOR LEASES THE EQUIPMENT AS IS AND HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR USE, OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE

PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO INCLUDING ANY WARRANTIES OF TITLE OR AGAINST INFRINGEMENT OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR PRACTICE, ALL OF WHICH ARE SPECIFICALLY DISCLAIMED BY LESSOR AND IN NO EVENT SHALL LESSOR BE OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF OR TO LESSEE OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO THE SALE, LEASE, USE, PERFORMANCE OR MAINTENANCE OF THE EQUIPMENT, INCLUDING INTERRUPTION OF SERVICE, LOSS OF DATA, LOSS OF REVENUE OR PROFIT, LOSS OF TIME OR BUSINESS, OR ANY SIMILAR LOSS, EVEN IF ANY SUCH PERSON IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF LESSEE ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS LEASE.

Lessee acknowledges that neither the original vendor nor licensor of the Equipment (including the salespersons of any of them) is an agent of Lessor, nor are they authorized to waive or alter any terms of this Lease. Lessee hereby waives any claim (including any claim based on strict or absolute liability in tort) it might have against Lessor or any assignee of the Lessor for any loss, damage or expense caused by or with respect to the Equipment. Lessor hereby assigns to Lessee during the Lease Term, to the extent permitted by law, all manufacturer's warranties, if any, that it may have with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. Lessor authorizes Lessee, to the extent permitted by law, to enforce in its own name any warranty, representation or other claim enforceable against the manufacturer. Lessor assumes no responsibility for shipment, delivery, installation or maintenance, and all claims of Lessee with respect thereto, whether for delay, damage or otherwise, will be made against the manufacturer. Lessor, at its option, may provide in its purchase order that the manufacturer agrees that any of such claims may be made by Lessee directly against the manufacturer. The obligation of Lessee to pay the Rental Payments as defined in Section 4 will not be abated, impaired or reduced by reason of any claims of Lessee with respect to the Equipment, including but not limited to its condition, quality, workmanship, delivery, shipment, installation, defects or otherwise.

10. **TITLE, SECURITY INTEREST:** Title to the Equipment is deemed to be in Lessee so long as no Event of Default pursuant to section 19 below has occurred and/or this Lease has not been terminated pursuant to the provisions of Section 8 above. Upon the earlier of (i) termination of this Lease in accordance with Section 8 above or (ii) the occurrence of an Event of Default by Lessee pursuant to Section 19 below, title will immediately revert to Lessor free of any right, title or interest of Lessee unless Lessor elects otherwise. In order to secure all of Lessee's obligations hereunder, Lessee hereby (a) to the extent permitted by law, grants to Lessor a first and prior security interest in any and all rights, titles and interest of Lessee in the Lease, the Equipment and in all additions, attachments, accessions, accessories, replacements, improvements and substitutions thereto, now or hereafter acquired, together with all rents, issues, income, profits and proceeds thereof, including insurance proceeds; (b) agrees that financing statements evidencing such security interest may be filed; and (c) agrees to execute and deliver all certificates of title and other instruments necessary or appropriate to evidence and perfect such security interest. Lessee further agrees that the Uniform Commercial Code will apply as between the parties hereto and Assignees of Lessor.
11. **PERSONAL PROPERTY:** The Equipment is, and will remain, personal property and will not be deemed to be affixed or attached to real property or any building thereon. If requested by Lessor, Lessee will, at Lessee's expense, furnish to Lessor landlord or mortgagee waiver with respect to the Equipment.
12. **USE; REPAIRS:** Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and will comply with all laws, ordinances, insurance policies and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of, its possession, use or maintenance. Lessee, at its sole costs and expense, will maintain the Equipment according to the manufacturer's recommended guidelines or the equivalent and meet any and all recertification requirements and will furnish proof of such maintenance, if requested by Lessor and will furnish all needed servicing and parts, which parts will become part of the Equipment. If the Equipment is such as is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement with a party reasonably satisfactory to Lessor.
13. **ALTERATIONS:** Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent, and any permitted alteration or attachment which cannot be readily removed without damaging the Equipment's originally intended function or value will become part of the Equipment.
14. **LOCATION; INSPECTION:** The Equipment will not be removed from, or if the Equipment consists of rolling stock, its permanent base will not be changed from the Equipment Location without Lessor's prior written consent, which consent will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operations.
15. **LIENS AND TAXES:** Lessee will keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee will pay, when due, all charges and taxes (federal, state and local) which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor will have the right, but will not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes for which Lessee is responsible or liable under this Lease, Lessee will, upon demand, reimburse Lessor therefor.

- 16. RISK OF LOSS; DAMAGE; DESTRUCTION:** Lessee assumes all risk of loss of or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment will relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair (the proceeds of any insurance recovery will be applied to the cost of such repair). If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee, at the option of Lessor, will (a) replace the same with like equipment in good repair; or (b) on the next Rental Payment date pay to Lessor (i) all amounts owed by Lessee under this Lease, including the Rental Payment due on such date, and (ii) an amount not less than the balance of the Rental Payments then remaining unpaid hereunder. In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Rental Payment and the balance of the Rental Payments then remaining unpaid hereunder, as applicable, to be made by Lessee with respect to the Equipment which has suffered the event of loss.
- 17. INSURANCE:** Lessee will, at its expense, maintain at all times during the Lease Term (a) fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as will be reasonably satisfactory to Lessor. In no event will the insurance limits be less than the greater of (i) an amount equal to the balance of the Rental Payments then remaining for the Lease Term or (ii) any minimum required by any co-insurance provisions of such insurance, (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 in which Lessee is located. Each insurance policy required by clause (b) of the preceding sentence will name Lessee as an insured and Lessor or its assigns as an additional insured and loss payee, as appropriate, and each insurance policy required by the preceding sentence will contain a clause requiring the insurer to give Lessor or its Assignee at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or its assigns, as their interest may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice hereof and make available to Lessor all information and documentation relating thereto. Notwithstanding the foregoing, with Lessor's prior written consent, Lessee may self-insure against any and all risks for which insurance is required.
- 18. INDEMNIFICATION:** To the extent permitted by law, and solely from legally available funds, Lessee agrees to indemnify Lessor against, and hold Lessor, its Assignees, or any participants with such, harmless from, any and all claims, actions, proceedings, expenses, damages, liabilities or losses (including, but not limited to, attorneys' fees and court costs) arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use, operation or return and the recovery of claims under insurance policies thereon.
- 19. EVENTS OF DEFAULT:** The Term "Event of Default" as used in this Lease, means the occurrence of any one or more of the following events: (a) Lessee fails to make any Rental Payment (or any other payment) as it becomes due in accordance with the terms of this Lease, and any such failure continues for ten (10) days after the date thereof; (b) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure is not cured within ten (10) days after written notice thereof by Lessor; (c) the discovery by Lessor that any statement, representation or warranty made by Lessee in this Lease or in any document delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (d) Lessee becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or substantial part of its assets, a petition for relief is filed by Lessee under federal bankruptcy, insolvency or similar laws, or a petition in a proceeding under any bankruptcy, insolvency or similar laws, is filed against Lessee and is not dismissed within thirty (30) days thereafter; (e) Lessee suffers an adverse material change in its financial condition or operations from the date hereof and, as a result, Lessor deems itself insecure; or (f) Lessee is in default under any other agreement executed at any time with Lessor, its affiliates or Lessor's Assignee or under any other agreement or instrument by which it is bound.
- 20. REMEDIES:** Upon the occurrence of an Event of Default, Lessor may, at its option, exercise any one or more of the following remedies: (a) by written notice to Lessee, declare an amount equal to all amounts then due under this Lease and all remaining Rental Payments which will become due during the then current fiscal year of Lessee to be immediately due and payable, whereupon the same will become immediately due and payable; (b) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly return the Equipment to Lessor in the manner set forth in Section 8 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same without liability to Lessor or its agents for such entry or for damage to property or otherwise; (c) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for (i) all Rental Payments and other payments due to the effective date of such selling, leasing or subleasing, and (ii) for the difference between the purchase price, rental and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and the remaining amounts payable by the Lessee through the end of the then current fiscal year of Lessee hereunder; and (d) exercise any other right, remedy or privilege which may be available to it under applicable law, including the right to (i) proceed by appropriate court action to enforce the terms of this Lease, (ii) recover damages for the breach of this Lease, and (iii) rescind this Lease as to any or all of the Equipment.

In addition, Lessee will remain liable for all covenants and indemnities under this Lease 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.

21. EARLY PURCHASE OPTION: Lessee may, upon sixty (60) days prior written notice to Lessor, and provided Lessee has fully paid and performed all other obligations hereunder and provided no Event of Default has occurred and is continuing, exercise one of the following prepayment options, based on the sole determination of Lessor: (a) There shall be no prepayment premium payable with respect to such prepayment if the Lessee is using available cash for prepayment, (b) There shall be no prepayment premium payable with respect to such prepayment if the Lessee is refinancing with the Lessor, (c) There shall be a 2% prepayment premium payable with respect to such prepayment if the Lessee is refinancing with another funding source, and (d) There shall be no prepayment premium payable with respect to such prepayment if the Lessee is exercising prepayment pursuant to Section 16 hereof and is not refinancing with another funding source. Lessee shall pay to Lessor the applicable amount, whereupon title to the Equipment will become unconditionally vested in Lessee, and Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, where is, without warranty, express or implied, except that Lessor will warrant to Lessee that the Equipment is free and clear of any liens created by Lessor. Provided, however, the parties acknowledge that this Lease may be partially prepaid as provided in Section 8 of the Escrow Agreement dated as of September 24, 2014, among Lessee, Lessor and Commerce Bank, as escrow agent.

22. ASSIGNMENT: Except as expressly provided herein, Lessee will not (a) assign, transfer, pledge, hypothecate or grant any security interest in, or otherwise dispose of, this Lease or the Equipment or any interest in this Lease or the Equipment or (b) sublet or lend the Equipment or permit the Equipment to be used by anyone other than Lessee or Lessee's employees unless Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor that such action will not adversely affect the exclusion of the interest portions of the Rental Payments from gross income for federal income tax purposes.

Lessor, without the consent of Lessee, may assign all or any portion or portions of its right, title and interest in and to this Lease, the Equipment and any other documents executed with respect to this Lease, and/or grant or assign all or any portion or portions of its security interest in this Lease and the Equipment, in whole or in part to various assignees, their agents or trustees (each and any one hereinafter referred to as an "Assignee"). Any such assignment to an Assignee may provide that the Lessor or the Assignee will act as a collection and paying agent for owners of certificates of participation in this Lease, or may provide that a third-party trustee or agent will act as collection and paying agent for any Assignee, provided that any such trustee or agent will maintain registration books as a register of all persons who are owners of certificates of participation or other interest in Rental Payments and Lessee receives written notification of the name and address of the trustee or agent and a copy of the pooling and fractionalization agency or trustee agreement, if any. Any such Assignee will have all of the assigned rights of Lessor under this Lease. Subject to the foregoing, this Lease will inure to the benefit of and will be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. Any assignment or reassignment of any of Lessor's right, title or interest in this Lease or the Equipment will be effective upon receipt by Lessee of a duplicate original of the counterpart document by which the assignment or reassignment is made, disclosing the name and address of each such Assignee and, where applicable, to whom further payments hereunder should be made. During the Lease Term, Lessee covenants that it will keep a complete and accurate record of all assignments in form necessary to comply with Section 149(a) of the Code and the regulations, proposed or existing, from time to time promulgated thereunder. Lessee agrees to acknowledge in writing any assignments if so required.

Lessee agrees that, upon notice of assignment, if so instructed it will pay directly to the Assignee, or its Trustee or Agent without abatement, deduction or setoff all amounts which become due hereunder. Lessee further agrees that it will not assert against any Assignee, Trustee or Agent any defense, claim, counterclaim or setoff on account of any reason whatsoever with respect to any Rental Payments or other amounts due hereunder or with respect to any action brought to obtain possession of the Equipment pursuant to this Lease.

23. FINANCIAL STATEMENTS: Each year during the term of this Lease, Lessee hereby agrees to deliver to Lessor a copy of: (i) annual audited financial statements within one hundred eighty (180) days of Lessee's fiscal year-end; and (ii) within a reasonable period of time, any other financial information Lessor requests from time to time.

24. NATURE OF AGREEMENT: Lessor and Lessee agree that upon the due and punctual payment and performance of the installments of Rental Payments and other amounts and obligations under this Lease, title to the Equipment will vest permanently in Lessee as provided in this Lease, free and clear of any interest, lien or security of Lessor therein.

25. AMENDMENTS: This Lease may be amended or any of its terms modified for the purpose of adding Equipment, with the written consent of the parties hereto. In such event, additions to or additional exhibits attached hereto will be executed by Lessee. All other amendments or modifications of the terms of this Lease (except for the addition or serial numbers for the Equipment as set forth in the Acceptance Certificate) must be accomplished by written consent of Lessee and Lessor, or its Assignee, if any; provided, however, that no amendment of this Lease will operate to reduce or delay any Rental Payments to be made hereunder without the consent of Lessor, or its Assignee, at the time of such amendment.

- 26. NOTICES:** All notices to be given under this Lease must be made in writing and mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice will be deemed to have been received five (5) days subsequent to mailing.
- 27. SECTION HEADINGS:** All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.
- 28. GOVERNING LAW:** This Lease will be governed by the provisions hereof and by the laws of the State of Missouri.
- 29. FURTHER ASSURANCES:** Lessee will deliver to Lessor (i) an opinion of counsel in substantially the form of Exhibit D attached hereto or as Lessor may otherwise request; and (ii) if applicable, a certificate of a duly authorized official as to designation as a qualified tax-exempt obligation. Moreover, Lessee will execute or provide, as requested by Lessor, any documents and information that are reasonably necessary with respect to the transaction contemplated by this Lease.
- 30. ENTIRE AGREEMENT:** This Lease, together with the exhibits attached hereto and made a part hereof and other attachments hereto and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the lease of the Equipment, and this Lease will not be modified, amended, altered or changed except with the written consent of Lessee or Lessor.
- 31. SEVERABILITY:** Any provision of this Lease found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Lease.
- 32. WAIVER:** The waiver by Lessor of any breach by Lessee of any term, covenant or condition, hereof will not operate as a waiver of any subsequent breach hereof.
- 33. CERTIFICATION AS TO ARBITRAGE:** Lessee hereby represents as follows:
- (a) The estimated total costs of the Equipment will not be less than the total principal amount of the Rental Payments.
 - (b) The Equipment has been ordered or is expected to be ordered within six months of the effective date of this Lease, and the Equipment is expected to be delivered and installed, and the Vendor fully paid, within one (1) year of the effective date of this Lease.
 - (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, or (ii) that may be used solely to prevent a default in the payment of Rental Payments.
 - (d) The Equipment 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 final Rental Payment.
 - (e) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable.

[The remainder of this page left blank intentionally.]

34. **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.

ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT, ARE NOT ENFORCEABLE. TO PROTECT YOU (LESSEE(S) AND US (LESSOR) FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

BY SIGNING BELOW, YOU AND WE AGREE THAT THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN US.

LESSOR: Clayton Holdings, LLC

LESSEE: City of Gladstone, Missouri

DATE:

9/24/14

DATE:

9/24/14

BY: (PRINTED NAME AND TITLE)

Office

BY:

Rick Davis City Mgr

Authorized Signature and Title:

Bill Mullen

Authorized Signature and Title:

[Signature]

EXHIBIT A TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000161-001

Description of Equipment

Half-ton 4x2 Truck	\$20,100.00
Half-ton 4x4 Truck	\$33,400.00
1-ton 4x2 Truck with Utility Bed	\$34,741.00
1-ton 4x4 with Plow and Spreader	\$46,950.00
6 Passenger Minivan	\$21,100.00
Special Service SUV	\$22,877.00
Backhoe	\$112,239.00
Skid Loader	\$61,344.00
Street Sweeper	\$218,496.95
Vactor	\$307,834.00
Dump Truck with Plow and Spreader (2)	\$249,934.00
 TOTAL:	 \$1,129,015.95

Location of Equipment: City of Gladstone, Missouri

Lessee hereby certifies that the description of the property set forth above constitutes an accurate account of the Equipment as referred to in the Lease.

LESSEE: CITY OF GLADSTONE, MISSOURI

BY:

City manager Kirk Davis

X

DATE: September 24, 2014

EXHIBIT B TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000161-001

DELIVERY AND ACCEPTANCE CERTIFICATE

TO: Clayton Holdings, LLC

Reference is made to the State and Municipal Lease/Purchase Agreement between the undersigned, City of Gladstone, Missouri Lessee"), and Clayton Holdings, LLC ("Lessor"), dated September 24, 2014, ("Lease") and to the Equipment as such term is defined therein. In connection therewith we are pleased to confirm to you the following:

1. All of the Equipment has been delivered to and received by the undersigned; all installation or other work necessary prior to the use thereof has been completed; said Equipment has been examined and/or tested and is in good operating order and condition and is in all respects satisfactory to the undersigned and as represented, and said Equipment has been accepted by the undersigned and complies with all terms of the Lease. Consequently, you are hereby authorized to pay for the Equipment in accordance with the terms of any purchase orders for the same.
2. In the future, in the event the Equipment fails to perform as expected or represented we will continue to honor the Lease in all respects and subject to Section 8 thereof, continue to make our rental and other payments thereunder in the normal course of business and we will look solely to the vendor, distributor or manufacturer for recourse.
3. We acknowledge that Lessor is neither the vendor nor manufacturer or distributor of the Equipment and has no control, knowledge or familiarity with the condition, capacity, functioning or other characteristics of the Equipment
4. The serial number for each item of Equipment which is set forth on Exhibit A to the Lease is correct.

This certificate will not be considered to alter, construe, or amend the terms of the Lease.

LESSEE: CITY OF GLADSTONE, MISSOURI

WITNESS:

X

BY:

X

DATE:

Federal Tax ID #: 44-6005624

EXHIBIT C TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000161-001

RENTAL PAYMENT SCHEDULE

Lessee: City of Gladstone, Missouri
Lessor: Clayton Holdings, LLC
Lease Number: 5000161-001
Lease Term in
Months: 82 months
Rental Periods: Seven (7) Annual Payments, In Arrears
First Payment Date: 7/15/2015
Capital Cost of
Equipment: \$1,129,015.95

Rental Payment Date	Payment Amount	Amount Credited to Interest	Amount Credited to Capital Cost	*Outstanding Principal Balance
7/15/2015	\$174,776.69	\$19,823.64	\$154,953.05	\$974,062.90
7/15/2016	\$174,776.69	\$20,942.35	\$153,834.34	\$820,228.56
7/15/2017	\$174,776.69	\$17,634.91	\$157,141.78	\$663,086.78
7/15/2018	\$174,776.69	\$14,256.37	\$160,520.32	\$502,566.46
7/15/2019	\$174,776.69	\$10,805.18	\$163,971.51	\$338,594.95
7/15/2020	\$174,776.69	\$7,279.79	\$167,496.90	\$171,098.05
7/15/2021	<u>\$174,776.69</u>	<u>\$3,678.64</u>	<u>\$171,098.05</u>	\$0.00
TOTALS:	\$1,223,436.83	\$84,420.88	\$1,129,015.95	

*Modified- Standard Prepayment-In the event Lessee desires to prepay this lease, they may do so in whole, but not in part at a premium of the then current outstanding principal balance, calculated as follows; 3% in year (1), 2% in year (2), and 1% in each year thereafter until maturity. There is no prepayment penalty if Lessee is using internally generated funds for prepayment.

Interest, if any, accruing from the Start Date to the actual date of funding shall be retained by Lessor as additional consideration for entering into this Lease Purchase Agreement.

LESSEE: CITY OF GLADSTONE, MISSOURI

BY: Kirk Davis, City Manager

X

DATE: September 24, 2014



All-America City

Gladstone



2008

OFFICE OF THE CITY COUNSELOR

EXHIBIT D
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000161-001

OPINION OF COUNSEL
September 24, 2014

Re: State and Municipal Lease/Purchase Agreement No. 500161-001,
Dated September 24, 2014 (the "Lease"), between Clayton Holdings,
LLC ("Lessor") and the City of Gladstone, Missouri ("Lessee")

Ladies and Gentlemen:

As legal counsel to Lessee, I have examined (a) the Lease, which, among other things, provides for the sale to and purchase by the Lessee of the Equipment, (b) an executed counterpart of the resolution of Lessee which, among other things, authorizes Lessee to execute the Lease and (c) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions.

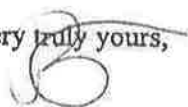
Based on the foregoing, I am of the following opinions:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and has 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 and to perform its obligations under the Lease.
3. The Lease 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 is a valid and binding obligation of Lessee enforceable in accordance with its terms.
4. The authorization, approval and execution of the Lease 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.

Furthermore, I confirm that the name of the Lessee as stated in the Lease, as the City of Gladstone, Missouri is the exact legal name of the Lessee for all purposes contemplated herein.

All capitalized terms herein shall have the same meanings as in the Lease. Lessor, its successors and assigns and any counsel rendering an opinion on the tax-exempt status of the interest components of Rental Payments are entitled to rely on this opinion.

Very truly yours,

A handwritten signature in dark ink, appearing to be "R. Thompson", written over the closing "Very truly yours,".

Randall D. Thompson

**EXHIBIT E TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000161-001**

[See City's Closing Certificate.]

STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000161-001

ESSENTIAL USE/SOURCE OF FUNDS LETTER

September 24, 2014

Clayton Holdings, LLC
8000 Forsyth Boulevard, Suite 510
St. Louis, Missouri 63105

Re: State and Municipal Lease/Purchase Agreement No. 5000161-001, dated September 24, 2014 (the "Lease"), between Clayton Holdings, LLC ("Lessor") and the City of Gladstone, Missouri ("Lessee")

Ladies and Gentlemen:

This confirms and affirms that the Equipment described in the Lease is essential to the function of the undersigned or to the service we provide to our citizens.

Further, we have an immediate need for, and expect to make immediate use of, substantially all such Equipment, which need is not temporary or expected to diminish in the foreseeable future. Such Equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. Specifically, such Equipment was selected by us to be used as follows: Road, water & sewer maintenance

The estimated useful life of such Equipment based upon manufacturer's representations and our projected needs is 10 years.

Our source of funds for payments of the Rental Payments due under the Lease for the current fiscal year is General Fund Revenues

We currently expect and anticipate adequate funds to be available for all future payments of rent due after the current fiscal year for and Combined Water & Wastewater Revenues
the following reasons:

City budgets annually for each payment

Very truly yours,

LESSEE: CITY OF GLADSTONE, MISSOURI

WITNESS:

X

BY:

X

DATE: September 24, 2014

Ruth E. Boechling

[Signature]

Kirk Davis City Mgr

Proof of Insurance

See Attached

Insurance Agent Name: N/A Pool Administrator Name: Midwest
Agency Name: Charlene Leslie Perry, Monroeville Public Risk
Address: 19400 E. Valley View Parkway Missouri
Phone Number: (616) 436-2200
E-Mail: charlene@gladstone.mo.us 61655

Ladies and Gentlemen:

Please add Clayton Holdings, LLC as both sole Loss Payee under property insurance covering the equipment listed on attached Exhibit A, and as Additional Insured under the general liability insurance policy. The minimum liability coverage is \$1,000,000.00. Please mail or fax an insurance certificate to:

Clayton Holdings, LLC
P.O. Box 11309
Saint Louis, MO 63105
Fax # 314.746.3744

Please note that the Bank requires 30 day written notice of cancellation of the policy covering leased equipment.

Lessee: City of Gladstone, Missouri

By: 

Title: City Manager

Date: September 24, 2014

Date: September 24, 2014

To: Clayton Holdings, LLC
8000 Forsyth Boulevard, Suite 510
St. Louis, MO 63105

RE: Lease Number 5000161-001

Ladies and Gentlemen,

Please disburse the proceeds of the above lease as follows:

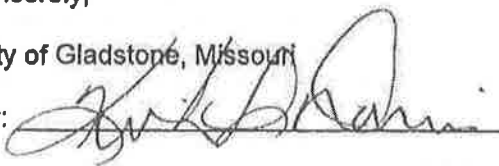
Wire or send to	Commerce Bank Escrow Account	\$1,129,015.95
-----------------	------------------------------	----------------

Total	\$1,129,015.95
-------	----------------

Sincerely,

City of Gladstone, Missouri

By:



ESCROW AGREEMENT

This Escrow Agreement (the "Escrow Agreement"), dated as of September 24, 2014, and entered into among CLAYTON HOLDINGS, LLC (together with its successors and assigns, "Lessor"), the City of Gladstone, Missouri a municipal corporation and political subdivision existing under the laws of Missouri ("Lessee"), and COMMERCE BANK, a Missouri banking corporation, as escrow agent (together with its successors and assigns, the "Escrow Agent").

Name of Acquisition Fund: "Gladstone CH Sch 001"

Amount of Deposit Into the Acquisition Fund: \$1,129,015.95

TERMS AND CONDITIONS

1. This Escrow Agreement relates to and is hereby made a part of the State and Municipal Lease/Purchase Agreement dated as of September 24, 2014, (the "Lease"), between Lessor and Lessee.

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

3. Lessor, Lessee and the Escrow Agent agree that the 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. The Escrow Agent shall not be deemed to be a party to the Lease, and this Escrow Agreement shall be deemed to constitute the entire agreement between Lessor and Lessee and the Escrow Agent.

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

5. Lessor shall deposit in the Acquisition Fund the amount specified above. Moneys held by the Escrow Agent hereunder shall be invested and reinvested by the Escrow Agent upon written order of an authorized Lessee representative, in accordance with the Arbitrage Instructions attached as Exhibit A, 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, the Escrow Agent shall invest and reinvest such moneys in Qualified Investments described in 6(vi) below. Such investments shall be held by the Escrow Agent in the Acquisition Fund; any interest and gain earned on such investments shall be deposited in the Acquisition Fund, and any losses on such investments shall be charged to the Acquisition Fund. The Escrow Agent may act as purchaser or agent in the making or disposing of any investment. Qualified Investments described in 6(vi) below will be subject to an annualized sweep fee charged monthly to the earnings on monies invested.

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 the 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 the 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 the Escrow Agent or a third party acting solely as agent for the 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 shall be used to pay for the cost of acquisition of the Equipment listed in the Lease. Such payment shall be made from the Acquisition Fund upon presentation to the Escrow Agent of one or more properly executed Payment Request and Acceptance Certificates, a form of which is attached as Exhibit B, 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 be paid. In making any disbursement pursuant to this Section 7, the Escrow Agent may conclusively rely as to the completeness and accuracy of all statements in such Payment Request and Acceptance Certificate, and the Escrow Agent shall not be required to make any inquiry, inspection or investigation in connection therewith. The approval of each Payment Request and Acceptance Certificate by the Lessor shall constitute unto the Escrow Agent an irrevocable determination by the Lessor that all conditions precedent to the payment of the amounts set forth therein have been completed.

8. The Acquisition Fund shall 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 C, properly executed by Lessee, or (b) the presentation of written notification by the Lessor, or, if the Lessor shall have 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 8 or 20 of the Lease. Upon termination as described in clause (a) of this paragraph, any amount remaining in the Acquisition Fund shall 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 shall be revised accordingly as specified by Lessor. Upon termination as described in clause (b) of this paragraph, any amount remaining in the Acquisition Fund shall immediately be paid to Lessor or to any assignees or subassignees of Lessor interest in this Lease.

9. The Escrow Agent may at any time resign by giving at least 30 days written notice to Lessee and Lessor, but such resignation shall 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, the 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 the Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent shall 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 shall, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of the Escrow Agent under this Escrow Agreement and the predecessor Escrow Agent shall 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 shall cease and terminate. If a successor Escrow Agent has not been so appointed within 90 days of such resignation or removal, the Escrow Agent may petition a court of competent jurisdiction to have a successor Escrow Agent appointed.

10. Any corporation or association into which the 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, shall be and become successor Escrow Agent hereunder and shall 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. The Escrow Agent incurs no responsibility to make any disbursements pursuant to the Escrow Agreement except from funds held in the Acquisition Fund. The 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. The 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. The Escrow Agent shall 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 shall be limited to those specifically provided herein.

13. Unless the 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 the 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 the 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 the 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 \$250.00 to be paid by Lessee concurrently with the execution and delivery of this Escrow Agreement.

Notwithstanding the preceding paragraph, the Escrow Agent shall be entitled to reimbursement from Lessor 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 Lessor and in no event shall such reimbursement be made from funds held by the Escrow Agent pursuant to this Escrow Agreement. The 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 the Escrow Agent under this Escrow Agreement or otherwise.

15. If Lessee, Lessor or the Escrow Agent shall be 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 the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Escrow Agent shall 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 shall 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. The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection for any action or non-action taken by the Escrow Agent in accordance with the opinion of such counsel. The Escrow Agent shall 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 shall be governed by and construed in accordance with the laws of the state in which the Escrow Agent is located.

18. In the event any provision of this Escrow Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall 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 the Escrow Agent.

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

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

CLAYTON HOLDINGS, LLC
LESSOR

By: Bill Mulder
Title: Officer

CITY OF GLADSTONE, MISSOURI
LESSEE

By: [Signature]
Title: City Manager

COMMERCE BANK
ESCROW AGENT

By: [Signature]
Title: VICE PRESIDENT

EXHIBIT A

ARBITRAGE INSTRUCTIONS

These Arbitrage Instructions provide procedures for complying with § 148 of the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exclusion from federal gross income of the interest portions of the Rental Payments under the Lease.

1. Temporary Period/Yield Restriction. Except as described in this paragraph, money in the Acquisition Fund must not be invested at a yield greater than the yield on the Lease. Proceeds of the Lease in the Acquisition Fund and investment earnings on such proceeds may be invested without yield restriction for three years after the Start Date of the Lease. If any unspent proceeds remain in the Acquisition Fund after three years, such amounts may continue to be invested without yield restriction so long as Lessee pays to the IRS all yield reduction payments under § 1.148-5(c) of the Treasury Regulations.

2. Opinion of Bond Counsel. These Arbitrage Instructions may be modified or amended in whole or in part upon receipt of an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations, satisfactory to Lessor, that such modifications and amendments will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes.

Lessee hereby certifies and represents to Lessor and the 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 Lease) exists at the date hereof.

Dated: _____, 20____

**CITY OF GLADSTONE, MISSOURI
LESSEE**

By: _____

Title: _____

**APPROVED:
CLAYTON HOLDINGS, LLC
LESSOR**

By: _____

Title: _____

EXHIBIT C

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 the 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 B

FORM OF PAYMENT REQUEST AND ACCEPTANCE CERTIFICATE

To: Commerce Bank, Escrow Agent
Clayton Holdings, LLC, as Lessor
8000 Forsyth Boulevard, Suite 510
Saint Louis, Missouri 63105

Re: Gladstone CH Sch 001 Acquisition Fund established by the Escrow Agreement, dated as of September 24, 2014 (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 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 or payment of the interest portions of Rental Payment(s) and has not formed the basis of any prior request for payment.

The equipment described below is part or all of the "Equipment" that is listed in State and Municipal Lease/Purchase Agreement dated as of September 24, 2014 (the "Lease") described in the Escrow Agreement.

Equipment:

Payee: _____

Amount: \$

Lessee hereby certifies and represents to and agrees with Lessor and the 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 17 of the Lease.

8038-G QUESTIONNAIRE

Name of Lessee: City of Gladstone, Missouri
 Address of Lessee: 7010 N. Holmes, Gladstone, MO 64118
 Contact Person: Debra Daily, Director of Finance
 Telephone Number: 816.438.2200
 Email Address: debrad@gladstone.mo.us
 Lessee's FEIN: 44-6005824

GENERAL

In September 2011, the Internal Revenue Service ("IRS") updated Form 8038-G (the form used by Lessees to report the issuance of a tax-exempt obligation). The revised Form 8038-G asks specific questions about written procedures to: (1) monitor private use of assets financed with proceeds of a tax-exempt obligation and, as necessary, to take remedial actions to correct any violations of federal tax restrictions on the use of financed assets; and (2) monitor the yield on the investment of gross proceeds of tax-exempt obligations and, as necessary, make payments of arbitrage rebate earned to the United States. In addition, the revised Form 8038-G asks Lessees to report whether any proceeds will be used to reimburse the Lessee for an expenditure paid prior to issuance. This questionnaire is designed to obtain the information necessary to complete Form 8038-G for the Lease. Lessee will be required to review and approve the information entered prior to signing the 8038-G form.

At this time, the consequences of not having adopted written procedures to monitor private use of financed assets and yield on the investment of gross proceeds of tax-exempt obligations are unknown. If you have further questions, please consult your regular bond or legal counsel.

Part 1 – Written Tax Compliance Procedures

Note: If either of these questions is not answered, we will assume the Lessee has not adopted the described procedures.

1. Has the Lessee established written procedures to monitor compliance with federal tax restrictions for the term of the lease? The written procedures should identify a particular individual within Lessee's organization to monitor compliance with the federal tax requirements related to use of the financed assets and describe actions to be taken in the event failure to comply with federal tax restrictions is contemplated or discovered. Yes ☒ No ☐
2. Has the Lessee established written procedures to monitor the yield on the investment of proceeds of the Lease on deposit in an escrow account or similar fund prior to being spent and to ensure that any positive arbitrage rebate earned is paid to the United States? Yes ☒ No ☐

Part 2 – Reimbursement of Prior Expenditures

1. As of the funding date, were any of the proceeds of the Lease used to reimburse Lessee for expenditures paid to acquire the financed assets prior to the funding date of the Lease?
Yes ☐ No ☒

If yes, please attach a spreadsheet listing the expenditure(s) together with the date paid, vendor paid and purpose of the expenditure or other proof of the expenditure(s) containing this information (i.e. invoices, receipts, cancelled checks).

Items 2 and 3 need to be completed ONLY if the answer to Item 1 above is YES.

2. Please attach a copy of Lessee's resolution of intent to finance the financed assets, which includes date of adoption.
3. What is the amount of proceeds of the Lease reimbursed to Lessee? \$ _____

BY: [Signature]
 NAME: Mike Davis
 TITLE: City Manager
 DATE: 9/24/14

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)

► See separate instructions.

Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name City of Gladstone		2 Issuer's employer identification number (EIN) 44-6005624	
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a	
4 Number and street (or P.O. box if mail is not delivered to street address) 7010 N. Holmes	Room/suite	5 Report number (For IRS Use Only) 3	
6 City, town, or post office, state, and ZIP code Gladstone, MO 64118		7 Date of issue 9/24/2014	
8 Name of issue		9 CUSIP number	
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) Debra Dally, Director of Finance		10b Telephone number of officer or other employee shown on 10a 816.436.2200	

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.			
11 Education		11	
12 Health and hospital		12	
13 Transportation		13	
14 Public safety		14	
15 Environment (including sewage bonds)		15	
16 Housing		16	
17 Utilities		17	
18 Other. Describe ► Vehicles include trucks for use in snow removal, a street sweeper, a backhoe, more		18	\$1,129,015. 95
19 If obligations are TANs or RANs, check only box 19a	<input type="checkbox"/>		
If obligations are BANs, check only box 19b	<input type="checkbox"/>		
20 If obligations are in the form of a lease or installment sale, check box	<input checked="" type="checkbox"/>		

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.					
	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	7/15/2021	\$ 1,129,015.95	\$ N/A	7 years	2.1500 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)			
22	Proceeds used for accrued interest	22	
23	Issue price of entire issue (enter amount from line 21, column (b))	23	
24	Proceeds used for bond issuance costs (including underwriters' discount)	24	
25	Proceeds used for credit enhancement	25	
26	Proceeds allocated to reasonably required reserve or replacement fund	26	
27	Proceeds used to currently refund prior issues	27	
28	Proceeds used to advance refund prior issues	28	
29	Total (add lines 24 through 28)	29	
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.	
31	Enter the remaining weighted average maturity of the bonds to be currently refunded years
32	Enter the remaining weighted average maturity of the bonds to be advance refunded years
33	Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)
34	Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)

Part VI Miscellaneous

- 35** Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) **35**
- 36a** Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) **36a**
- b** Enter the final maturity date of the GIC ▶ _____
- c** Enter the name of the GIC provider ▶ _____
- 37** Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units **37**
- 38a** If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☐ and enter the following information:
- b** Enter the date of the master pool obligation ▶ _____
- c** Enter the EIN of the issuer of the master pool obligation ▶ _____
- d** Enter the name of the issuer of the master pool obligation ▶ _____
- 39** If the issuer has designated the issue under section 265(b)(3)(B)(i)(iii) (small issuer exception), check box ▶ ☐
- 40** If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐
- 41a** If the issuer has identified a hedge, check here ▶ ☐ and enter the following information:
- b** Name of hedge provider ▶ _____
- c** Type of hedge ▶ _____
- d** Term of hedge ▶ _____
- 42** If the issuer has superintegrated the hedge, check box ▶ ☐
- 43** If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ▶ ☐
- 44** If the issuer has established written procedures to monitor the requirements of section 148, check box ▶ ☐
- 45a** If some portion of the proceeds was used to reimburse expenditures, check here ▶ ☐ and enter the amount of reimbursement ▶ _____
- b** Enter the date the official intent was adopted ▶ _____

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

Signature of issuer's authorized representative

Date 9/24/14

Type or print name and title Kirk Davis City Manager

Paid Preparer Use Only

Print/type preparer's name

William Mulder

Preparer's signature

Bill Mulder

Date

9/20/14

Check ☒ if self-employed

PTIN

P01696981

Firm's name ▶ William Mulder

Firm's EIN ▶

Firm's address ▶ 8000 Forsyth Boulevard, Suite 510, Saint Louis, MO 63105

Phone no. 314.746.3787

CITY'S CLOSING CERTIFICATE
\$1,129,015.95
STATE AND MUNICIPAL LEASE/PURCHASE AGREEMENT
DATED AS OF SEPTEMBER 24, 2014
BETWEEN
CLAYTON HOLDINGS, LLC, AS LESSOR,
AND THE
CITY OF GLADSTONE, MISSOURI, AS LESSEE

We, the undersigned, City Manager and City Clerk, respectively, of the City of Gladstone, Missouri (the "City"), in connection with the execution and delivery of the above-referenced State and Municipal Lease/Purchase Agreement (the "Lease"), between Clayton Holdings, LLC, as lessor (the "Lessor"), and the City, do hereby further certify as follows:

Capitalized words and terms used in this Certificate, unless the context requires otherwise, shall have the same meanings as set forth in the Lease.

1. **Meeting.** Attached hereto as a part of *Exhibit A* is a true and correct copy of the excerpt of minutes of a lawful meeting of the City Council of the City held on September 22, 2014 at which meeting a quorum was present and acting throughout, and said excerpt of minutes remains in full force and effect. That meeting was a regular meeting and, in accordance required by law, notice of such meeting (1) was posted at least 24 hours (excluding weekends and holidays) prior to the commencement of the meeting on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for posting notices at the principal office and meeting place of the City Council, and (2) was made available at least 24 hours (excluding weekends and holidays) prior to the commencement of said meeting to any representative of the news media who requested notice of the meeting. A copy of the notice of meeting is attached hereto as a part of *Exhibit A*.

2. **Resolution.** Attached hereto as *Exhibit B* is a full, true and correct copy of the Resolution (the "Resolution") authorizing the hereinafter referred to Lease Documents adopted by the City Council of the City at said meeting. The Resolution has not been amended or rescinded and is in full force and effect, and the City Council of the City has, and at the time of the adoption of the Resolution had, full power and lawful authority to adopt the Resolution and to confer the powers thereby granted to the officers therein named, who have full power and lawful authority to exercise the same.

3. **Authorization, Execution and Delivery of Lease Documents.** The following documents (the "Lease Documents") have been duly negotiated, authorized, executed and delivered in the name and on behalf of the City by the its duly authorized officer, pursuant to and in full compliance with the Resolution; the copies of the Lease Documents contained in the transcript of proceedings relating to the authorization and delivery of the Lease are true, complete and correct copies or counterparts of the Lease Documents as authorized, executed and delivered by the Lessee, as have been approved by the officer of the City executing the same; and said documents have not been amended, modified or rescinded in any manner and are in full force and effect on the date hereof:

(a) Lease, and

(b) Escrow Agreement dated as of September 24, 2014, among the City, the Lessor and Commerce Bank, as escrow agent.

4. **City Representative.** The following persons are hereby delegated authority to act on behalf of the City under the Lease Documents, and the signature set forth opposite her or his name is a true and correct specimen of her or his genuine signature:

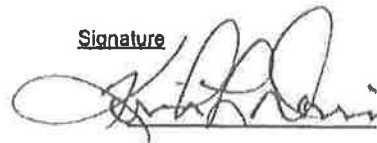
Name

Title

Signature

Kirk Davis

City Manager



5. **Compliance with Lease Documents.** The City has performed and complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied by it under the Lease Documents at or prior to the date hereof.

6. **Representations and Warranties.** The representations and warranties of the City contained in the Lease Documents are true and correct on and as of the date hereof as if made on the date hereof.


7. **Insurance.** The City maintains or has caused to be maintained the bonds and insurance required by Section 17 of the Lease.

8. **No Default.** No condition or event exists that constitutes, or with the giving of notice or the passage of time or both would constitute, an Event of Default under the Lease, and the leasehold estate created thereby is now in full force and effect and it has not been further modified, except as herein shown.

9. **No Litigation.** There is no pending or, to the knowledge of the undersigned, threatened action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court or governmental agency in any way questioning or affecting the ability of the City to perform its obligations under the Lease Documents or contesting the validity or enforceability thereof or the existence of the City.


DATED: September 24, 2014

CITY OF GLADSTONE, MISSOURI

By 
City Manager

[SEAL]

ATTEST:


City Clerk



**EXHIBIT A
CITY CLOSING CERTIFICATE
EXCERPT OF MINUTES OF MEETING**

The City Council of the City of Gladstone, Missouri (the "City"), met in regular session at City Hall, 7010 North Holmes, Gladstone, Missouri, on September 22, 2014, at 7:30 p.m., and the following officials were present or absent as indicated:

<u>Name/Title</u>	<u>Present/Absent</u>
J. Brian Hill, Mayor	Present
Bill Gamos, Mayor Pro Tem	Present
Carol Suter, Council Member	Present
Jean Moore, Council Member	Present
R.D. Mallams, Council Member	Present

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

The matter of authorizing the City to enter into a state and municipal lease/purchase agreement with Clayton Holdings, LLC, as lessor, and the City, as lessee, came on for consideration and was discussed.

Councilmember J. Brian Hill introduced Resolution No. R-14-66, being for a Resolution titled as follows:

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE/PURCHASE AGREEMENT WITH CLAYTON HOLDINGS, LLC FOR \$1,128,015.95.

The City Clerk reported that a copy of the proposed Resolution had been made available for public inspection prior to the time the Bill was introduced and under consideration by the City Council.

On motion duly made and seconded, the Resolution was read by title, considered and discussed, and, thereupon, was duly passed by unanimous vote.

Aye: 5

Nay: 0

Thereupon, the Mayor declared the Resolution duly passed and the Resolution was then duly numbered Resolution No. R-14-66, and was signed and approved by the Mayor and attested by the City Clerk.

* * * * *

(Other Proceedings)

There being no further business to come before the meeting at this time, upon motion duly made, seconded and carried, the meeting was adjourned.



Ruth E Borchert
City Clerk



CITY COUNCIL MEETING

GLADSTONE, MISSOURI

MONDAY, SEPTEMBER 22, 2014

OPEN STUDY SESSION: 6:45 PM

REGULAR MEETING: 7:30 PM

AGENDA

The City Council will meet in Closed Executive Session at 6:15 pm Monday, September 22, 2014, in the City Manager's office, Gladstone City Hall, 7010 North Holmes, Gladstone, Missouri. The Closed Executive Session is closed pursuant to Missouri Open Meeting Act Exemption 610.021(1) for Litigation and Confidential or Privileged Communications with Legal Counsel, and 610.021(2) for Real Estate Acquisition Discussion, and 610.021(3) for Personnel Discussion.

- 1. Meeting Called to Order.**
- 2. Roll Call.**
- 3. Pledge of Allegiance.**
- 4. Approval of the September 8, 2014, Regular City Council Meeting Minutes.**
- 5. PROCLAMATION: Recognizing WORKING SMOKE ALARMS SAVE LIVES; TEST YOURS EVERY MONTH; FIRE PREVENTION WEEK, OCTOBER 5-11, 2014.**

6. **PROCLAMATION: Recognizing NATIONAL CODE ENFORCEMENT MONTH, OCTOBER 2014.**

REGULAR AGENDA

7. **Communications from the Audience.**
8. **Communications from the City Council.**
9. **Communications from the City Manager.**
10. **City of Gladstone Financial Report for two months ended August 31, 2014.**
11. **RESOLUTION R-14-66** A Resolution authorizing the City Manager to execute a lease purchase agreement with Clayton Holdings, LLC for \$1,129,015.95.
12. **RESOLUTION R-14-67** A Resolution authorizing acceptance of a proposal from KC Freightliner for the purchase of two 4X2 dump trucks each with a spreader and plow in the combined purchase amount of \$249,934.00.
13. **RESOLUTION R-14-68** A Resolution authorizing acceptance of proposals from Gladstone Dodge for the purchase of five light duty vehicles in the combined purchase amount of \$156,291.00.
14. **RESOLUTION R-14-69** A Resolution authorizing acceptance of a proposal from Foley Equipment for the purchase of a Skid Steer Track Loader and a backhoe in the combined purchase amount of \$173,583.00.
15. **RESOLUTION R-14-70** A Resolution authorizing acceptance of a proposal from Shawnee Mission Ford for the purchase of a Special Service SUV in the amount of \$22,877.00.

16. **RESOLUTION R-14-71** A Resolution authorizing acceptance of a proposal from Key Equipment for the purchase of a Street Sweeper and a Sewer Vactor Truck in the combined purchase amount of \$526,330.95.00.
17. **RESOLUTION R-14-72** A Resolution accepting permanent drainage easements from certain property owners in conjunction with the Northeast 70th Terrace and North Holmes Street Storm Drain Improvement Project.
18. **FIRST READING BILL NO. 14-32** An Ordinance approving a Settlement Agreement with CenturyLink.
19. Other Business.
20. Questions from the News Media.
21. Adjournment.

Representatives of the News Media may obtain copies of this notice by contacting:

City Clerk Ruth Bocchino
City of Gladstone
7010 North Holmes
Gladstone, MO 64118
816-423-4096

Posted at 3:45 pm
September 18, 2014
By City Clerk Ruth Bocchino

NOTICE OF MEETING

Public notice is hereby given that a regular meeting of the City Council of the City of Gladstone, Missouri will be held at City Hall, 7010 North Holmes, Gladstone, Missouri at 7:30 p.m. on September 22, 2014, to consider and act upon the matters on the following tentative agenda and such other matters as may be presented at the meeting and determined to be appropriate for discussion at that time.

1. A Resolution authorizing the City of Gladstone, Missouri, to enter into a state and municipal lease/purchase agreement with Clayton Holdings, LLC for certain public improvements, including the acquisition of various vehicles to be used for the maintenance and operation of City functions, and authorizing and approving certain actions in connection with the execution and delivery of said state and municipal lease/purchase agreement.
2. Other Matters.

The meeting will be open to the public. A copy of the Resolution referred to above will be available for public inspection prior to the meeting in the office of the City Clerk.

Dated: September 18, 2014

Ruth E. Bocchino
City Clerk

EXHIBIT B
(See Resolution No. R-14-66 attached)



7010 N Holmes Gladstone, Missouri 64118 816-436-2200 Fax 816-436-2228 Gladstone.mo.us

Sept. 15, 2014

TO: Kirk Davis – City Manager
FROM: Debra Daily – Director of Finance DD
RE: Capital Equipment Replacement Financing

Finance requested rate quotes to lease/purchase capital equipment totaling \$1,129,015.95. This proposed lease purchase was requested by Finance and approved during the FY15 Budget process with the objective of looking historically low financing rates for capital equipment that was scheduled for replacement over the next three years in the General Fund and the Combined Water and Wastewater Fund (CWSS).

Finance requested bids based on a seven year maturity for equipment with anticipated lives of at least 10 years. The requested lease was to be structured with payments in arrears with first debt service payment to be made in July of 2015 or FY16. This would coincide with debt maturities in FY15 in General Fund that would accommodate debt service payments beginning in FY16.

Three vendors were requested to provide quotes. The following analysis indicates that Clayton Holdings, LLC, an equity subsidiary of Commerce Bank, had the low bid. Finance recommends that the lease be secured through Clayton Holdings, LLC. Payments are structured to result in lowest possible interest costs over the term of the lease. The City would like to thank everyone that submitted a bid for their time and expertise. We appreciated the opportunity to work with each bank on this rate quote.

A listing of the bid quotes (Exhibit 1) as well as a summary of the capital equipment (Exhibit 2) to be purchased is provided for your reference. Also attached is a resolution authorizing the City Manager to execute a lease/purchase agreement with the Clayton Holdings, LLC in the amount of \$1,129,015.95. If you have any questions, I will be glad to address them.

Exhibit 1

Capital Equipment

Lease Financing Rate Analysis

	General Fund	CWSS	Total
Acquisition Cost	\$708,942.95	\$420,073.00	\$1,129,015.95

Vendor	Bid Rate (NBQ)	Quoted Fees
Clayton Holdings (Commerce Bank)	2.15% *	\$250
Pirri Bank	3.75%	0
Lawson Bank	3.00%	\$950

* Best bid

Exhibit 2

Capital Equipment for Lease

Description	Vendor	Purchase Price (all inclusive*)
Half-ton 4x2 Truck	Gladstone Dodge	\$20,100
Half-ton 4x4 Truck	Gladstone Dodge	\$33,400
1-ton 4x2 Truck with Utility Bed	Gladstone Dodge	\$34,741
1-ton 4x4 with Plow and Spreader	Gladstone Dodge	\$46,950
6 Passenger Minivan	Gladstone Dodge	\$21,100
Special Service SUV	Shawnee Mission Ford	\$22,877
Backhoe (CWSS)	Foley Equipment	\$112,239
Skid Loader	Foley Equipment	\$61,344
Street Sweeper	Key Equipment	\$218,496.95
Vactor (CWSS)	Key Equipment	\$307,834
Dump Truck with Plow and Spreader (2)	KC Freightliner	\$249,934
	TOTAL:	\$1,129,015.95

*Includes trade-in and all associated equipment

RESOLUTION NO. R-14-66

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE PURCHASE AGREEMENT WITH CLAYTON HOLDINGS, LLC FOR \$1,129,015.95.

WHEREAS; the City of Gladstone, Missouri desires to replace certain existing capital equipment, and has budgeted for such purpose in the FY15 Budget; and

WHEREAS, three (3) quotes were received for certain capital equipment, and the quoted interest rate proposed by Clayton Holdings, LLC at 2.15% has been determined to be the best bid; and

WHEREAS, the City Council finds that it is in the best interest of the City to authorize the City Manager to negotiate and execute a lease/purchase agreement with the Clayton Holdings for the purchase of such equipment.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

THAT, the City Manager of the City of Gladstone, Missouri is hereby authorized to negotiate and execute certain Equipment Lease/Option to Purchase Agreement expected to close on September 24, 2014, between Clayton Holdings, LLC and the City of Gladstone, Missouri, for lease/purchase amount of \$1,129,015.95 plus applicable interest.

FURTHER THAT funds for such purpose are authorized from the General Fund and CWSS Fund.

INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 22ND DAY OF SEPTEMBER, 2014.


J. Brian Hill, Mayor

Attest:


Ruth Bocchino, City Clerk

ESCROW AGENT'S CLOSING CERTIFICATE
\$1,129,016.95
STATE AND MUNICIPAL LEASE/PURCHASE AGREEMENT
DATED AS OF SEPTEMBER 24, 2014
BETWEEN
CLAYTON HOLDINGS, LLC, AS LESSOR,
AND THE
CITY OF GLADSTONE, MISSOURI, AS LESSEE

The undersigned, a duly authorized officer of Commerce Bank (the "Escrow Agent"), does hereby certify as follows:

1. The Escrow Agent is a banking corporation duly organized under the laws of the State of Missouri and has full power and authority to act as escrow agent under the Escrow Agreement dated as of September 24, 2014 (the "Escrow Agreement"), among the City of Gladstone, Missouri, Clayton Holdings, LLC, and the Escrow Agent.
2. The person who executed and delivered the Escrow Agreement on behalf of the Escrow Agent was at that time and still is at the date hereof the duly elected or appointed, qualified and acting officer or signatory of the Escrow Agent holding the office set forth under her or his signature and was and still is at the date hereof authorized to perform said act.
3. The Escrow Agent has received for the account of the Lessee and deposited into the Escrow Fund (as defined in the Escrow Agreement) the amount of \$1,129,015.95.

DATED: September 24, 2014

COMMERCE BANK, as Escrow Agent

By: 

VICE PRESIDENT

Title: _____

LESSOR'S CLOSING CERTIFICATE
\$1,129,015.95
STATE AND MUNICIPAL LEASE/PURCHASE AGREEMENT
DATED AS OF SEPTEMBER 24, 2014
BETWEEN
CLAYTON HOLDINGS, LLC, AS LESSOR,
AND THE
CITY OF GLADSTONE, MISSOURI, AS LESSEE

The undersigned, a duly authorized officer of Clayton Holdings, LLC (the "Lessor"), does hereby certify and represent as follows:

Capitalized words and terms used in this Certificate, unless the context requires otherwise, will have the same meanings as set forth in the State and Municipal Lease/Purchase Agreement dated as of September 24, 2014 (the "Lease"), between the Lessor and the City of Gladstone, Missouri (the "City").

1. The Lessor is a banking corporation duly organized under the laws of the State of Missouri and has full power and authority to enter into (a) the Lease and (b) the Escrow Agreement dated as of September 24, 2014 (the "Escrow Agreement"), among the City, the Lessor and Commerce Bank, as escrow agent.
2. The duties and obligations of the undersigned as Lessor under the Lease and the Escrow Agreement and the compliance with the provisions thereof will not conflict with or constitute a breach of or default under any laws, administrative regulations, consent decree or any agreement or other instrument to which the Lessor is subject.
3. The person who executed and delivered the Lease and the Escrow Agreement on behalf of the Lessor was at that time and still is at the date hereof the duly elected or appointed, qualified and acting officer or signatory of the Lessor holding the office set forth under his or her signature and was and still is at the date hereof authorized to perform said acts.
4. The Lessor has entered the Lease for its own account and has not acted as agent or principal for any person or entity. As of the date hereof, the Lessor has not sold and has no present intention to sell any portion of the Lease to any person or entity. The aggregate purchase price of the Lease is \$1,129,015.95.

DATED: September 24, 2014

CLAYTON HOLDINGS, LLC

By: Bill Mullan

Title: officer

Debra Daily - RE: Lease escrow

From: "Stout, Ashley" <Ashley.Stout@CommerceBank.com>
To: DebraD@gladstone.mo.us
Date: 10/3/2014 12:39 PM
Subject: RE: Lease escrow
CC: Matt.Dority@CommerceBank.com; Frank.Hill@CommerceBank.com
Attachments: 5000161-001.executed.lease.pdf

Debra,

Please find attached a copy of the fully executed documents for your records.

Do not hesitate to contact us with any questions regarding disbursements from the escrow.

Thank you!

Ashley Stout
Government Finance Representative
727 Poyntz Avenue
Manhattan, KS 66502
785-587-1543- Direct
785-587-1586-Fax



Commerce Bank

From: Debra Daily [mailto:DebraD@gladstone.mo.us]
Sent: Friday, September 26, 2014 8:35 AM
To: Stout, Ashley; Hill, Frank; Dority, Matt
Subject: RE: Lease escrow

Thanks all. We appreciate it as well.

Debra Daily
Director of Finance
City of Gladstone
7010 N. Holmes
Gladstone, MO. 64118
email: debrad@gladstone.mo.us
phone: [816-436-2200](tel:816-436-2200)
Fax: [816-436-2228](tel:816-436-2228)

>>> "Hill, Frank" <Frank.Hill@CommerceBank.com> 9/25/2014 3:59 PM >>>

Thank you for the business, we truly appreciate working with the City.

Kind Regards,

Frank

From: Stout, Ashley
Sent: Thursday, September 25, 2014 3:59 PM
To: Debra Daily
Cc: Hill, Frank; Dority, Matt
Subject: RE: Lease escrow

Debra,

We have funded into the escrow. We will be sending you a copy of the fully executed documents in the next day or two for your records as well.

Let us know if you need anything else.

Thank you!

Ashley Stout
Government Finance Representative
727 Poyntz Avenue
Manhattan, KS 66502
785-587-1543- Direct
785-587-1586-Fax



Commerce Bank

From: Debra Daily [mailto:DebraD@gladstone.mo.us]
Sent: Thursday, September 25, 2014 3:43 PM
To: Stout, Ashley; Hill, Frank; Dority, Matt
Subject: Lease escrow

Has the escrow funding occurred yet? Thanks!

Debra Daily
Director of Finance
City of Gladstone
7010 N. Holmes
Gladstone, MO. 64118
email: debrad@gladstone.mo.us
phone: [816-436-2200](tel:816-436-2200)
Fax: [816-436-2228](tel:816-436-2228)

If you wish to communicate securely with Commerce Bank and its affiliates,
you must log into your account under Online Services at
<http://www.commercebank.com> or use the Commerce Bank Secure Email Message
Center at <https://securemail.commercebank.com>

NOTICE: This electronic mail message and any attached files are confidential.

The information is exclusively for the use of the individual or entity intended as the recipient. If you are not the intended recipient, any use, copying, printing, reviewing, retention, disclosure, distribution or forwarding of the message or any attached file is not authorized and is strictly prohibited. If you have received this electronic mail message in error, please advise the sender by reply electronic mail immediately and permanently delete the original transmission, any attachments and any copies of this message from your computer system.

If you wish to communicate securely with Commerce Bank and its affiliates, you must log into your account under Online Services at <http://www.commercebank.com> or use the Commerce Bank Secure Email Message Center at <https://securemail.commercebank.com>

NOTICE: This electronic mail message and any attached files are confidential. The information is exclusively for the use of the individual or entity intended as the recipient. If you are not the intended recipient, any use, copying, printing, reviewing, retention, disclosure, distribution or forwarding of the message or any attached file is not authorized and is strictly prohibited. If you have received this electronic mail message in error, please advise the sender by reply electronic mail immediately and permanently delete the original transmission, any attachments and any copies of this message from your computer system.
