
**MISSOURI DEVELOPMENT FINANCE BOARD
as Board**

AND

**CITY OF INDEPENDENCE, MISSOURI,
as City**

FINANCING AGREEMENT

Dated as of October 1, 2021

Relating to

**[\$Principal – A]
Infrastructure Facilities Refunding
Revenue Bonds
(City of Independence, Missouri - Annual
Appropriation Sewer System Revenue Bonds)
Series 2021A**

**[\$Principal – B]
Taxable Infrastructure Facilities
Refunding Revenue Bonds
(City of Independence, Missouri - Annual
Appropriation Sewer System Revenue Bonds)
Series 2021B**

Certain rights, title and interest of the Missouri Development Finance Board in this Financing Agreement have been pledged and assigned to UMB Bank, N.A., Kansas City, Missouri, as Trustee under a Bond Trust Indenture dated as of October 1, 2021, between the Board and the Trustee.

FINANCING AGREEMENT

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FINANCING AGREEMENT

THIS FINANCING AGREEMENT, dated as of October 1, 2021 (the “Financing Agreement”), between the **MISSOURI DEVELOPMENT FINANCE BOARD**, a body corporate and politic organized and existing under the laws of the State of Missouri (the “Board”), and the **CITY OF INDEPENDENCE, MISSOURI**, a constitutional charter city and political subdivision of the State of Missouri (the “City”);

WITNESSETH:

WHEREAS, the Board is authorized and empowered under the Missouri Development Finance Board Act, Sections 100.250 to 100.297, inclusive, of the Revised Statutes of Missouri, as amended (“Act”), to issue revenue bonds for the purpose of providing funds to finance and refinance the costs of certain “projects” as defined in the Act (which includes “infrastructure facilities” as defined in the Act) and to pay certain costs related to the issuance of such revenue bonds; and

WHEREAS, the Board previously has assisted in the financing of the Project described in the herein defined Indenture through the issuance of various series of bonds, including the Board’s Infrastructure Facilities Revenue Bonds (City of Independence, Missouri - Annual Appropriation Sewer System Revenue Bonds), Series 2012B (the “Series 2012B Bonds”); Infrastructure Facilities Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2013C (the “Series 2013C Bonds”); and Infrastructure Facilities Revenue Bonds (City of Independence, Missouri - Annual Appropriation Sewer System Revenue Bonds), Series 2014C (the “Series 2014C Bonds”); and

WHEREAS, the City has requested that the Board assist in the refinancing of a portion of the Project through the issuance of the Board’s Infrastructure Facilities Revenue Bonds, being described as the Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021A, in the original principal amount of \$[Principal – A] (the “Series 2021A Bonds”) to refund, on a current basis, the entire \$30,430,000 outstanding principal amount of the Series 2012B Bonds (the “Series 2012B Refunded Bonds”); and

WHEREAS, the City has further requested that the Board assist in the refinancing of another portion of the Project through the issuance of the Board’s Infrastructure Facilities Revenue Bonds, being described as the Taxable Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021B, in the original principal amount of \$[Principal – B] (the “Series 2021B Bonds,” together with the Series 2021A Bonds, the “Series 2021 Bonds”) to advance refund the entire \$38,665,000 outstanding principal amount of the Series 2013C Bonds (the “Series 2013C Refunded Bonds,” together with the Series 2012B Refunded Bonds, the “Refunded Bonds”); and

WHEREAS, the governing body of the Board passed and approved a Resolution on September __, 2021, authorizing the Board to issue the Series 2021 Bonds pursuant to the Bond Trust Indenture dated of even date herewith (the “Indenture”) between the Board and UMB Bank, N.A., as Trustee; and

WHEREAS, pursuant to such Resolution, the Board is authorized (i) to execute and deliver the Indenture for the purpose of issuing and securing the Series 2021 Bonds, and (ii) to enter into this Financing Agreement, under which the Board will loan the proceeds of the Series 2021 Bonds to the City in accordance with the provisions of this Financing Agreement to refinance a portion of the Project through the refunding of the Refunded Bonds, in consideration of payments to be made by the City to the

Trustee which are to be sufficient to pay the principal of, redemption premium, if any, and interest on the Series 2021 Bonds as the same become due; and

WHEREAS, the City, by Ordinance No. _____ of the City passed by the City Council on September ___, 2021, approved the issuance of the Series 2021 Bonds and the execution and delivery of certain documents, including this Financing Agreement, and directed the City Manager to include in each future budget submitted to the council an appropriation for all payments required under this Financing Agreement, as provided herein and therein; and

WHEREAS, pursuant to the foregoing, the Board desires to loan the proceeds of the Series 2021 Bonds to the City, and the City desires to borrow the proceeds of the Series 2021 Bonds from the Board, to be repaid by the City upon the terms and conditions hereinafter set forth, all for the purpose of providing funds to refinance a portion of the Project through the refunding of the Refunded Bonds, fund a reserve fund deposit or the premium for a reserve fund policy for each series of the Series 2021 Bonds, and pay certain costs related to the issuance of each series of the Series 2021 Bonds and the incidental costs of refunding the Refunded Bonds; and

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the Board and the City, do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. Capitalized terms not defined in this Financing Agreement shall have the meanings set forth in the Indenture.

Section 1.2. Rules of Interpretation.

For all purposes of this Financing Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Words importing the singular number shall include the plural and vice versa and words importing person shall include firms, associations and corporations, including public bodies, as well as natural persons.

(c) The table of contents hereto and the headings and captions herein are not a part of this document.

(d) Terms used in an accounting context and not otherwise defined shall have the meaning ascribed to them by accounting principles generally accepted in the United States of America.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the Board. The Board represents and warrants to the City and the Trustee as follows:

(a) *Organization and Authority.* The Board (1) is a public body corporate and politic duly organized and existing under the laws of the State of Missouri, and (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement and the Indenture and to carry out its obligations hereunder and thereunder, and (3) by all necessary action has been duly authorized to execute and deliver this Financing Agreement and all Transaction Documents required to be executed and delivered by it in connection with the issuance of the Series 2021 Bonds (collectively, the “Board Documents”), acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing Agreement and the other Board Documents by the Board will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Board is a party or by which it or any of its property is bound or its bylaws or any of the constitutional or statutory laws, rules or regulations applicable to the Board or its property.

Section 2.2. Representations by the City. The City represents and warrants to the Board and the Trustee as follows:

(a) *Organization and Authority.* The City (1) is a constitutional charter city and political subdivision duly organized and validly existing under the laws of the State of Missouri, and (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement and all other Transaction Documents required to be executed and delivered by it in connection with the issuance of the Series 2021 Bonds (collectively, the “City Documents”) and to carry out its obligations hereunder and thereunder, and (3) by all necessary action has been duly authorized to execute and deliver this Financing Agreement and the other City Documents, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing Agreement and the other City Documents by the City will not conflict with or result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the City is a party or by which it or any of its property is bound or its charter, or any of the laws, rules or regulations applicable to the City or its property.

(c) *Public Purpose.* The City believes that the appropriation of revenues to pay its obligations under this Financing Agreement is an essential public purpose.

(d) *No Litigation.* To the knowledge of the City, there is no litigation or proceeding pending or threatened against the City or any other person affecting the right of the City to execute this Financing Agreement or the other City Documents or the ability of the City to make the Loan Payments or to otherwise comply with the obligations under this Financing Agreement or the other City Documents. Neither the execution and delivery of this Financing Agreement by the City, nor compliance by the City with its obligations under this Financing Agreement require the approval of any regulatory body, or any other entity, which approval has not been obtained.

Section 2.3. Survival of Representations. All representations of the Board and the City contained in this Financing Agreement or in any certificate or other instrument delivered by any such entity pursuant to this Financing Agreement or any other Transaction Document, or in connection with the transactions contemplated thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Series 2021 Bonds, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations.

ARTICLE III

THE LOAN; PAYMENT OF THE BONDS; ISSUANCE OF THE BONDS

Section 3.1. Amount and Source of the Loan; Issuance of Bonds.

(a) The Board agrees to lend to the City, upon the terms and conditions herein and in the Indenture specified, the net proceeds received by the Board from the sale of the Series 2021 Bonds (the “Series 2021 Loan,” and, until the issuance of any Additional Bonds, the “Loan”). In order to provide funds to make the Series 2021 Loan and refinance a portion of the costs of the Project through the refunding of the Refunded Bonds, the Board agrees that it will issue, sell and deliver the Series 2021 Bonds to the Original Purchaser. The proceeds of the sale of the Series 2021 Bonds shall be paid over to the Trustee for the account of the Board and shall be administered, disbursed and applied in the manner provided in the Indenture.

(b) In the event that the Board issues any Additional Bonds pursuant to the terms of the Indenture, the Board agrees to lend to the City, upon the terms and conditions herein and in the Indenture (as supplemented in connection with the issuance of the Additional Bonds), the net proceeds received by the Board from the sale of such Additional Bonds (the “Additional Bond Loan,” together with the Series 2021 Loan and any other Additional Bond Loan, the “Loan”). In order to provide funds to make an Additional Bond Loan, the Board agrees that it will issue, sell and deliver the related series of Additional Bonds as authorized by and permitted pursuant to the Indenture and this Financing Agreement (as supplemented in connection with the issuance of such Additional Bonds) to the original purchaser thereof. The proceeds of the sale of such Additional Bonds shall be paid over to the Trustee for the account of the Board and shall be administered, disbursed and applied in the manner provided in the Supplemental Indenture related to such series of Additional Bonds

Section 3.2. Loan Payments. Subject to the limitations of **Sections 3.5, 3.7** and **4.1** hereof, the City shall pay the following amounts to the Trustee, all as “Loan Payments” under this Financing Agreement:

(a) *Debt Service Fund - Interest:* On or before 10:00 a.m. on or before the Business Day preceding each May 1 and November 1, commencing [May 1, 2022], an amount which is not less than the interest to become due on the next interest payment date on the Bonds; provided, however that the City may be entitled to certain credits on such payments as permitted under **Section 3.3** of this Financing Agreement.

(b) *Debt Service Fund - Principal:* On or before 10:00 a.m. on or before the Business Day preceding each November 1, commencing November 1, 2022, an amount which is not less than the principal to become due on the next principal payment date on the Bonds;

provided, however, that the City may be entitled to certain credits on such payments as permitted under **Section 3.3** of this Financing Agreement.

(c) *Debt Service Fund - Redemption:* On or before 10:00 a.m. on or before the Business Day preceding the date required by this Financing Agreement or the Indenture, the amount which is intended or required to redeem Bonds then Outstanding if the City exercises its right to redeem Bonds under any provision of the Indenture or if any Bonds are required to be redeemed (other than pursuant to mandatory sinking fund redemption provisions) under any provision of the Indenture.

Notwithstanding any schedule of payments upon the Loan set forth in this Financing Agreement or the Indenture, the City shall make payments upon the Loan and shall be liable therefor at the times and in the amounts (including interest, principal, and redemption premium, if any) equal to the amounts to be paid as interest, principal and redemption premium, if any, whether at maturity or by optional or mandatory redemption upon all Bonds from time to time Outstanding under the Indenture.

Any Supplemental Financing Agreement shall provide for similar deposits into the Debt Service Fund of amounts sufficient to insure the prompt payment of the principal of, premium, if any, and interest on any Additional Bonds as the same become due.

Unpaid Loan Payments shall bear interest at the Prime Rate. Any interest charged and collected on an unpaid Loan Payment shall be deposited to the credit of the Debt Service Fund and applied to pay interest on overdue amounts in accordance with the Indenture.

The City and the Board each acknowledge that they have no interest in the Debt Service Fund, the Debt Service Reserve Fund or the Rebate Fund, and any moneys deposited therein shall be in the custody of and held by the Trustee in trust for the benefit of the Bondowners and the United States of America as provided in the Indenture.

Section 3.3. Credits on Loan Payments. Notwithstanding any provision contained in this Financing Agreement or in the Indenture to the contrary, in addition to any credits on the Loan resulting from the payment or prepayment of Loan Payments from other sources:

(a) any moneys deposited (including earnings thereon) by the Trustee in the Debt Service Fund as interest (including moneys received as accrued interest from the sale of the Bonds and any initial deposit of capitalized interest made from the proceeds of the sale of the Bonds) shall be credited against the obligation of the City to pay interest on the Loan as the same becomes due;

(b) any moneys deposited (including earnings thereon) by the Trustee in the Debt Service Fund as principal shall be credited against the obligation of the City to pay the principal of the Loan as the same becomes due in the order of maturity thereof; and

(c) the amount of any moneys transferred by the Trustee from any other fund held under the Indenture and deposited in the Debt Service Fund as interest or principal shall be credited against the obligation of the City to pay interest or principal, as the case may be, as the same become due.

Section 3.4. Additional Payments. Subject to the limitations of **Sections 3.5, 3.7 and 4.1** hereof, the City shall pay the following amounts to the following persons, all as “Additional Payments” under this Financing Agreement:

(a) to the Trustee, when due, all reasonable fees and charges for its services rendered under the Indenture, this Financing Agreement and any other Transaction Documents, and all reasonable expenses (including without limitation reasonable fees and charges of any Paying Agent, bond registrar, counsel, accountant, engineer or other person) incurred in the performance of the duties of the Trustee under the Indenture or this Financing Agreement for which the Trustee and other persons are entitled to repayment or reimbursement;

(b) to the Trustee, upon demand, an amount necessary to pay rebatable arbitrage in accordance with the Tax Compliance Agreement and the Indenture;

(c) to the Trustee, upon written demand of the Trustee the amount required by **Section 406(a)** or **(b)** of the Indenture necessary to restore any account in the Debt Service Reserve Fund to an amount equal to the Debt Service Reserve Fund Requirement for the applicable series of Bonds. Any Supplemental Financing Agreement shall provide for similar deposits into the Debt Service Reserve Fund of amounts sufficient to increase, if necessary, the deposits to such fund as required by the Indenture.

(d) to the Board, on the Bond Issuance Date, its regular administrative and issuance fees and charges, if any, and all expenses (including without limitation attorney's fees) incurred by the Board in relation to the transactions contemplated by this Financing Agreement and the Indenture, which are not otherwise to be paid by the City under this Financing Agreement or the Indenture;

(e) to the appropriate person, such payments as are required (i) as payment for or reimbursement of any and all reasonable costs, expenses and liabilities incurred by the Board or the Trustee or any of them in satisfaction of any obligations of the City hereunder that the City does not perform, or incurred in the defense of any action or proceeding with respect to the Project, this Financing Agreement or the Indenture, or (ii) as reimbursement for expenses paid, or as prepayment of expenses to be paid, by the Board or the Trustee and that are incurred as a result of a request by the City, or a requirement of this Financing Agreement and that the City is not otherwise required to pay under this Financing Agreement;

(f) to the appropriate person, amounts to be paid pursuant to the Tax Compliance Agreement;

(g) to the appropriate person, any other amounts required to be paid by the City under this Financing Agreement or the Indenture; and

(h) any past due Additional Payments shall continue as an obligation of the City until they are paid and shall bear interest at the Prime Rate plus 2% during the period such Additional Payments remain unpaid.

Section 3.5. Annual Appropriations. The City intends, on or before the last day of each Fiscal Year, to budget and appropriate moneys sufficient to pay all Loan Payments and reasonably estimated Additional Payments for the next succeeding Fiscal Year from Available Sewer Revenues. The City shall deliver written notice to the Trustee no later than 15 days after the commencement of its Fiscal Year stating whether or not the City Council has appropriated funds sufficient for the purpose of paying the Loan Payments and Additional Payments reasonably estimated to become due during such Fiscal Year. If the City Council shall have made the appropriation necessary to pay the Loan Payments and reasonably estimated Additional Payments to become due during such Fiscal Year, the failure of the City

to deliver the foregoing notice on or before the 15th day after the commencement of its Fiscal Year shall not constitute an Event of Nonappropriation and, on failure to receive such notice 15 days after the commencement of the City's Fiscal Year, the Trustee shall make independent inquiry of the fact of whether or not such appropriation has been made. If the City Council shall not have made the appropriation necessary to pay the Loan Payments and Additional Payments reasonably estimated to become due during such succeeding Fiscal Year, the failure of the City to deliver the foregoing notice on or before the 15th day after the commencement of its Fiscal Year shall constitute an Event of Nonappropriation.

Section 3.6. Annual Budget Request. The City Manager or other officer of the City at any time charged with the responsibility of formulating budget proposals shall include in the budget proposals submitted to the City Council, in each Fiscal Year in which the Financing Agreement shall be in effect, an appropriation from Available Sewer Revenues for all payments required for the ensuing Fiscal Year; it being the intention of the City that the decision to appropriate or not to appropriate under the Financing Agreement shall be made solely by the City Council and not by any other official of the City. The City intends, subject to the provisions above respecting the failure of the City to budget or appropriate funds to make Loan Payments and Additional Payments, to pay the Loan Payments and Additional Payments under the Financing Agreement. The City reasonably believes that legally available funds in an amount sufficient to make all Loan Payments and Additional Payments during each Fiscal Year can be obtained from Available Sewer Revenues. The City further intends to do all things lawfully within its power to obtain and maintain funds from which the Loan Payments and Additional Payments may be made, including making provision for such Loan Payments and Additional Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with applicable procedures of the City and to exhaust all available reviews and appeals in the event such portion of the budget is not approved. The City's Director of Finance is directed to do all things lawfully within his or her power to obtain and maintain funds from which the Loan Payments and Additional Payments may be paid, including making provision for such Loan Payments and Additional Payments to the extent necessary in each proposed annual budget submitted for approval or by supplemental appropriation in accordance with applicable procedures of the City and to exhaust all available reviews and appeals in the event such portion of the budget or supplemental appropriation is not approved. Notwithstanding the foregoing, the decision to budget and appropriate funds is to be made in accordance with the City's normal procedures for such decisions.

Section 3.7. Loan Payments to Constitute Current Expenses of the City. The Board and the City acknowledge and agree that the Loan Payments and Additional Payments under the Financing Agreement shall constitute currently budgeted expenditures of the City, and shall not in any way be construed or interpreted as creating a liability or a general obligation or debt of the City in contravention of any applicable constitutional or statutory limitation or requirements concerning the creation of indebtedness by the City, nor shall anything contained in the Financing Agreement constitute a pledge of the general credit, tax revenues, funds or moneys of the City. The City's obligations to pay Loan Payments and Additional Payments under the Financing Agreement shall be from year to year only, and shall not constitute a mandatory payment obligation of the City in any ensuing Fiscal Year beyond the then current Fiscal Year. Neither the Financing Agreement nor the issuance of the Bonds shall directly or indirectly obligate the City to levy or pledge any form of taxation or make any appropriation or make any payments beyond those appropriated for the City's then current Fiscal Year, but in each Fiscal Year Loan Payments and Additional Payments shall be payable solely from the amounts budgeted or appropriated therefor out of the income and revenue provided for such year, plus any unencumbered balances from previous years; provided, however, that nothing in the Financing Agreement shall be construed to limit the rights of the owners of the Bonds or the Trustee to receive any amounts which may be realized from the Trust Estate pursuant to the Indenture. Failure of the City to budget and appropriate said moneys on or before the last day of any Fiscal Year shall be deemed an Event of Nonappropriation.

ARTICLE IV

SECURITY FOR THE LOAN

Section 4.1. Security for the Loan. The City's obligations to pay the Loan Payments and Additional Payments described herein and any amounts required to be paid under **Section 6.2** or **Section 9.4** hereof, as applicable, shall be limited, special obligations of the City payable solely from, and secured as to the payment of principal and interest by, a pledge of, subject to annual appropriation by the City as provided in **Section 3.5** hereof, Available Sewer Revenues of the City and as provided in the Authorizing Ordinance and the Indenture. The taxing power of the City is not pledged to the payment of the Loan either as to principal or interest. The City's obligation to pay the Loan Payments and Additional Payments shall not constitute general obligations of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction.

ARTICLE V

TERM

Section 5.1. Term of Financing Agreement. This Financing Agreement shall be effective from and after its execution and delivery and shall continue in full force and effect until the Bonds are deemed to be paid within the meaning of **Article X** of the Indenture and provision has been made for paying all other sums payable by the City to the Board, the Trustee and the Paying Agent for the Bonds under this Financing Agreement and the Indenture. All agreements, covenants, representations and certifications by the City as to all matters affecting the status of the interest on the Bonds shall survive the termination of this Financing Agreement and the defeasance of the Bonds.

ARTICLE VI

GENERAL COVENANTS AND PROVISIONS

Section 6.1. Information Provided to the Board and the Trustee. The City shall furnish to the Board and the Trustee written notice of any Event of Nonappropriation as soon as practicable, but in no event more than **5** days after such Event of Nonappropriation.

The City will at any and all times, upon the written request of the Trustee or the Board and at the expense of the City, permit the Trustee and the Board by their representatives to inspect the properties, books of account, records, reports and other papers of the City, and to take copies and extracts therefrom, and will promptly afford and procure a reasonable opportunity to make any such inspection, and the City will furnish to the Board and the Trustee any and all information as the Board or the Trustee may reasonably request with respect to the performance by the City of its covenants in this Financing Agreement.

Section 6.2. Indemnification.

(a) The City releases the Board and the Trustee from, agrees that the Board and the Trustee shall not be liable for, and indemnifies the Board and the Trustee against, all liabilities, losses, damages (including attorneys' fees), causes of action, suits, claims, costs and expenses, demands and judgments of

any nature imposed upon or asserted against the Board or the Trustee, on account of: (i) any breach or default on the part of the City in the performance of any covenant or agreement of the City under this Financing Agreement or any related document, or arising from any act or failure to act by the City, or any of its agents, contractors, servants, employees or licensees (including, without limitation, any failure to comply or any violation, actual or alleged, in connection with Environmental Regulations); (ii) matters regarding the authorization, issuance and sale of the Bonds attributable to the City, and the provision of any information furnished by the City in connection therewith concerning the Project or the City or arising from (1) any errors or omissions by the City such that the Bonds, when delivered to the Bondowners, are not validly issued and binding obligations of the Board, or (2) any fraud or misrepresentations or omissions contained in the proceedings of the Board furnished by or attributable to the City relating to the issuance of the Bonds or pertaining to the financial condition of the City which, if known to the original purchaser of the Bonds, might be considered a material factor in its decision to purchase the Bonds.

(b) The City agrees to indemnify the Trustee for and to hold it harmless against all liabilities, claims, costs and expenses incurred without negligence or willful misconduct on the part of the Trustee, on account of any action taken or omitted to be taken by the Trustee in accordance with the terms of this Financing Agreement, the Bonds, the Indenture or any other Transaction Document or any action taken at the request of or with the consent of the City, including the costs and expenses (including, without limitation, reasonable compensation, expenses and disbursements of its agents and counsel) of the Trustee in defending itself against any such claim, action or proceeding brought in connection with the exercise or performance of any of its powers or duties under this Financing Agreement, the Bonds or the Indenture.

(c) In case any action or proceeding is brought against the Trustee in respect of which indemnity may be sought hereunder, the party seeking indemnity promptly shall give notice of that action or proceeding to the City, and the City upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of a party to give that notice shall not relieve the City from any of its obligations under this Section unless that failure prevents the defense of the action or proceeding by the City. At its own expense, an indemnified party may employ separate legal counsel and participate in the defense; provided, however, in the event the City shall fail to employ counsel or such counsel shall fail to actively defend such actions or protect the Board or the Trustee, or both, the Board or the Trustee may employ counsel at the expense of the City to defend such action. The City shall not be liable for any settlement without its consent.

(d) The indemnification set forth above is intended to and shall include the indemnification of all affected officials, directors, officers, attorneys, accountants, financial advisors, staff and employees of the Board and the Trustee, respectively. That indemnification is intended to and shall be enforceable by the Board and the Trustee, respectively, to the full extent permitted by law.

Section 6.3. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Undertaking. Notwithstanding any other provision of this Financing Agreement, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an event of default under this Financing Agreement; however, the Trustee may (and, at the request of the Underwriter or the owners of at least 25% aggregate principal amount in Outstanding Series 2021 Bonds, shall) or any bondowner or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section. For purposes of this Section, “**Beneficial Owner**” means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Series 2021 Bonds (including persons holding Series 2021 Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Series 2021 Bonds for federal income tax purposes.

Section 6.4. Limitation on Additional Financings. The City covenants that it will not issue any additional bonds or incur any other annual appropriation obligations payable from the Revenues of the Sewer System unless the City delivers to the Trustee (a) a certificate of the City's Director of Finance concluding that, based upon the audited financial statements of the City, the Net Revenues Available for Debt Service for the preceding Fiscal Year were not less than 110% of the maximum annual payments on all Existing Obligations and the additional bonds or lease purchase obligations proposed to be issued or incurred, or (b) a report of an independent consultant retained by the City concluding that the projected Net Revenues Available for Debt Service for the first full Fiscal Year following the Fiscal Year in which the improvements are expected to be placed in commercial operation are projected to be not less than 110% of the maximum annual payments on all Existing Obligations and the additional bonds or lease purchase obligations proposed to be issued or incurred. The term "Existing Obligations" means Debt Service Requirements on all bonds or annual appropriation obligations payable from the Revenues of the Sewer System.

The City may refund System Revenue Bonds or other annual appropriation obligations payable from the Revenues in a manner which provides present value debt service savings to the City.

Section 6.5. Rate Covenant. Subject to applicable legal requirements, the City will fix, establish, maintain and collect such rates and charges for the use and services furnished by or through the Sewer System as will produce revenues sufficient to (a) pay the Expenses of the Sewer System; (b) pay Debt Service Requirements; and (c) enable the City to have Net Revenues Available for Debt Service of not less than 110% of the amounts payable pursuant to (b). The City will, from time to time as often as necessary, in accordance with and subject to applicable legal requirements, revise the rates and charges for the Sewer System in such manner as may be necessary or proper so that revenues of the Sewer System will be sufficient to cover the obligations under the Financing Agreement. If in any fiscal year revenues of the Sewer System are, or are projected to be, an amount less than the amounts described above, the City will immediately employ a consultant to make recommendations with respect to such rates and charges. A copy of the consultant's report and recommendations shall be filed with the City's Director of Finance and Administration and the Board. The City shall, to the extent feasible, follow the recommendations of the consultant.

ARTICLE VII

ADDITIONAL BONDS

Section 7.1. Additional Bonds. The Board from time to time may, in its sole discretion, at the written request of the City, authorize the issuance of Additional Bonds for the purposes and upon the terms and conditions provided in **Section 203** of the Indenture; provided that (1) the terms of such Additional Bonds, the purchase price to be paid therefor and the manner in which the proceeds thereof are to be disbursed shall have been approved by resolutions adopted by the Board and the City; (2) the Board and the City shall have entered into a Supplemental Financing Agreement to acknowledge that Loan Payments are revised to the extent necessary to provide for the payment of the principal of, redemption premium, if any, and interest on the Additional Bonds and to extend the term of this Financing Agreement if the maturity of any of the Additional Bonds would otherwise occur after the expiration of the term of this Financing Agreement; and (3) the Board and the City shall have otherwise complied with the provisions of this Financing Agreement and **Section 203** of the Indenture with respect to the issuance of such Additional Bonds.

ARTICLE VIII

ASSIGNMENT OF BOARD'S RIGHTS UNDER FINANCING AGREEMENT

Section 8.1. Assignment by the Board. The Board, by means of the Indenture and as security for the payment of the principal of, purchase price, and redemption premium, if any, and interest on the Bonds, will assign, pledge and grant a security interest in all of its rights, title and interests in, to and under this Financing Agreement, including Loan Payments and Additional Payments and other revenues, moneys and receipts received by it pursuant to this Financing Agreement, to the Trustee (reserving its Unassigned Board's Rights) for the benefit of the bondowners.

Section 8.2. Restriction on Transfer of Board's Rights. The Board will not sell, assign, transfer or convey its interests in this Financing Agreement except pursuant to the Indenture.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

Section 9.1. Events of Default Defined. The term "Event of Default" or "Default" shall mean any one or more of the following events:

- (a) Failure by the City to make timely payment of any Loan Payment.
- (b) Failure by the City to make any Additional Payment when due and, after notice of such failure, the City shall have failed to make such payment within 10 days following the due date.
- (c) Failure by the City to observe and perform any covenant, condition or agreement on the part of the City under this Financing Agreement or the Indenture, other than as referred to in the preceding subparagraphs (a) and (b) of this Section, for a period of 30 days after written notice of such default has been given to the City by the Trustee or the Board during which time such default is neither cured by the City nor waived in writing by the Trustee and the Board, provided that, if the failure stated in the notice cannot be corrected within said 30-day period, the Trustee and the Board may consent in writing to an extension of such time prior to its expiration and the Trustee and the Board will not unreasonably withhold their consent to such an extension if corrective action is instituted by the City within the 30-day period and diligently pursued to completion and if such consent, in their judgment, does not materially adversely affect the interests of the bondowners.
- (d) Any representation or warranty by the City herein or in any certificate or other instrument delivered under or pursuant to this Financing Agreement or the Indenture or in connection with the financing of the Project shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made, unless waived in writing by the Board and the Trustee or cured by the City, if such representation or warranty can be cured to the satisfaction of the Board and the Trustee within 30 days after notice thereof has been given to the City.

Section 9.2. Remedies on Default. Subject to the provisions of **Section 9.7** hereof, whenever any Event of Default shall have occurred and be continuing, the Trustee, as the assignee of the Board,

may take any one or more of the following remedial steps; provided that if the principal of all Bonds then Outstanding and the interest accrued thereon shall have been declared immediately due and payable pursuant to the provisions of **Section 702** of the Indenture, all Loan Payments for the remainder of the Loan Term shall become immediately due and payable without any further act or action on the part of the Board or the Trustee and the Trustee may immediately proceed (subject to the provisions of **Section 9.7** hereof) to take any one or more of the remedial steps set forth in subparagraph (b) of this Section:

(a) By written notice to the City declare the outstanding principal of the Loan due in such Fiscal Year to be immediately due and payable, together with interest on overdue payments of principal and redemption premium, if any, and, to the extent permitted by law, interest, at the rate or rates of interest specified in the respective Bonds or the Indenture, without presentment, demand or protest, all of which are expressly waived.

(b) Take whatever other action at law or in equity is necessary and appropriate to exercise or to cause the exercise of the rights and powers set forth herein or in the Indenture, as may appear necessary or desirable to collect the amounts payable pursuant to this Financing Agreement then due and thereafter to become due or to enforce the performance and observance of any obligation, agreement or covenant of the City under this Financing Agreement or the Indenture.

In the enforcement of the remedies provided in this Section, the Trustee may treat all fees, costs and expenses of enforcement, including reasonable legal, accounting and advertising fees and expenses, as Additional Payments then due and payable by the City.

Any amount collected pursuant to action taken under this Section shall be paid to the Trustee and applied, first, to the payment of any costs, expenses and fees incurred by the Board or the Trustee as a result of taking such action and, next, any balance shall be used to satisfy any Loan Payments then due by payment into the Debt Service Fund and applied in accordance with the Indenture and, then, to satisfy any other Additional Payments then due or to cure any other Event of Default.

Notwithstanding the foregoing, the Trustee shall not be obligated to take any step that in its opinion will or might cause it to expend time or money or otherwise incur liability, unless and until indemnity satisfactory to it has been furnished to the Trustee at no cost or expense to the Trustee, as provided in **Section 802(e)**, **Section 802(k)** and **Section 804** of the Indenture.

The provisions of this Section are subject to the limitation that the annulment of a declaration that the Bonds are immediately due and payable shall automatically constitute an annulment of any corresponding declaration made pursuant to subparagraph (a) of this Section and a waiver and rescission of the consequences of such declaration and of the Event of Default with respect to which such declaration has been made, provided that no such waiver or rescission shall extend to or affect any other or subsequent Default or impair any right consequent thereon. In the event any covenant, condition or agreement contained in this Financing Agreement shall be breached or any Event of Default shall have occurred and such breach or Event of Default shall thereafter be waived by the Trustee, such waiver shall be limited to such particular breach or Event of Default.

Section 9.3. No Remedy Exclusive. Subject to the provisions of **Section 9.7** hereof, no remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Financing Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon a Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be

exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 9.4. Agreement to Pay Attorneys' Fees and Expenses. In connection with any Event of Default by the City, if the Board or the Trustee employs attorneys or incurs other expenses for the collection of amounts payable hereunder or the enforcement of the performance or observance of any covenants or agreements on the part of the City herein contained, the City agrees that it will, on demand therefor, pay to the Board and the Trustee the reasonable fees of such attorneys and such other reasonable fees, costs and expenses so incurred by the Board and the Trustee.

Section 9.5. Board and City to Give Notice of Default. The Board and the City shall each, at the expense of the City, promptly give to the Trustee written notice of any Default of which the Board or the City, as the case may be, shall have actual knowledge or written notice, but the Board shall not be liable for failing to give such notice.

Section 9.6. Performance of the City's Obligations. If the City shall fail to keep or perform any of its obligations as provided in this Financing Agreement, then the Board or the Trustee may (but shall not be obligated so to do), upon the continuance of such failure on the City's part for 15 days after notice of such failure is given to the City by the Board or the Trustee, and without waiving or releasing the City from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by the Board or the Trustee and all necessary incidental costs and expenses incurred by the Board or the Trustee in performing such obligations shall be deemed to be Additional Payments and shall be paid to the Board or the Trustee plus interest at the Prime Rate plus 2% on demand.

Section 9.7. Remedial Rights Assigned to the Trustee. Upon the execution and delivery of the Indenture, the Board will thereby have assigned to the Trustee all rights and remedies conferred upon or reserved to the Board by this Financing Agreement, reserving only the Unassigned Board's Rights. The Trustee shall have the exclusive right to exercise such rights and remedies conferred upon or reserved to the Board by this Financing Agreement in the same manner and to the same extent, but under the limitations and conditions imposed thereby and hereby. The Trustee and the bondowners shall be deemed third party creditor beneficiaries of all representations, warranties, covenants and agreements contained herein.

ARTICLE X

PREPAYMENT AND ACCELERATION OF LOAN PAYMENTS

Section 10.1. Prepayment at the Option of the City. Upon the exercise by the City of its option to cause the Bonds or any portion thereof to be redeemed pursuant to the Indenture, the City shall prepay Loan Payments in whole or in part at the times and at the prepayment prices sufficient to redeem all or a corresponding portion of the Bonds then Outstanding in accordance with the Indenture. At the written direction of the City such prepayments shall be applied to the redemption of the Bonds in whole or in part in accordance with the Indenture.

Section 10.2. Mandatory Prepayment to Satisfy Scheduled Mandatory Sinking Fund Redemption Requirements. The City shall prepay Loan Payments at the times, in the amounts and at the prepayment prices sufficient to redeem corresponding portions of the Bonds in accordance with any mandatory sinking fund redemption provisions of the Indenture. The City shall be entitled to all credits on such prepayment of a portion of Loan Payments, as set forth in the Indenture, and the City shall comply with all terms and provisions of the Indenture with respect thereto.

Section 10.3 Right to Prepay at Any Time. The City shall have the option at any time to prepay all of the Loan Payments, Additional Payments and other amounts it is required to pay hereunder by paying to the Trustee all such sums as are sufficient to satisfy and discharge the Indenture and paying or making provision for the payment of all other sums payable hereunder.

Section 10.4. Notice of Prepayment. To exercise the option granted by **Section 10.3**, the City shall give written notice to the Board and the Trustee which shall specify therein the date upon which a prepayment of Loan Payments will be made, which date shall be not less than 45 days from the date the notice is received by the Trustee. In the Indenture, the Board has directed the Trustee to forthwith take all steps (other than the payment of the money required to redeem the Bonds) necessary under the applicable provisions of the Indenture to effect any redemption of the then Outstanding Bonds, in whole, or in part, pursuant to the Indenture.

Section 10.5. Precedence of this Article. The rights, options and obligations of the City set forth in this Article may be exercised or shall be fulfilled, as the case may be, whether or not a Default exists hereunder, provided that such Default will not result in nonfulfillment of any condition to the exercise of any such right or option.

ARTICLE XI

SUPPLEMENTAL FINANCING AGREEMENTS

Section 11.1. Supplemental Financing Agreements without Consent of Bondowners. Without the consent of the owners of any Bonds, the Board and the City may from time to time enter into one or more Supplemental Financing Agreements, for any of the following purposes:

- (a) to subject to this Financing Agreement additional property or to more precisely identify any project financed or refinanced out of the proceeds of any series of Bonds, or to substitute or add additional property thereto; or
- (b) to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of the Loan, as herein set forth, additional conditions, limitations and restrictions thereafter to be observed; or
- (c) in connection with the issuance of any Additional Bonds, to make such other provisions as provided in **Section 7.1**; or
- (d) to evidence the succession of another entity to the City and the assumption by any such successor of the covenants of the City herein contained; or
- (e) to add to the covenants of the City or to the rights, powers and remedies of the Trustee for the benefit of the owners of all or any series of Bonds or to surrender any right or power herein conferred upon the City; or

(f) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein or to make any other provisions, with respect to matters or questions arising under this Financing Agreement, which shall not be inconsistent with the provisions of this Financing Agreement, provided such action shall not adversely affect the interests of the owners of the Bonds (and the Trustee shall be entitled to receive and rely upon and Opinion of Counsel in exercising such judgment).

Section 11.2. Supplemental Financing Agreements with Consent of Bondowners. With the prior written consent of the owners of not less than a majority in principal amount of the Bonds then Outstanding affected by such Supplemental Financing Agreement, the Board and the City may enter into Supplemental Financing Agreements, in form satisfactory to the Trustee, for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Financing Agreement or of modifying in any manner the rights of the Trustee and the owners of the Bonds under this Financing Agreement; provided, however, that no such Supplemental Financing Agreement shall, without the consent of the owner of each Outstanding Bond affected thereby:

(a) change the stated maturity of the principal of, or any installment of interest on, the Loan, or reduce the principal amount thereof or the interest thereon or any premium payable upon the redemption thereof, or change any place of payment where, or the coin or currency in which, the Loan, or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the stated maturity thereof (or, in the case of redemption, on or after the redemption date); or

(b) reduce the percentage in principal amount of the Outstanding Bonds, the consent of whose owners is required for any such Supplemental Financing Agreement, or the consent of whose owners is required for any waiver provided for in this Financing Agreement of compliance with certain provisions of this Financing Agreement or certain defaults hereunder and their consequences; or

(c) modify any of the provisions of this Section, except to increase any percentage provided thereby or to provide that certain other provisions of this Financing Agreement cannot be modified or waived without the consent of the owner of each Bond affected thereby.

The Trustee may in its discretion determine whether or not any Bonds would be affected by any Supplemental Financing Agreement and any such determination shall be conclusive upon the owners of all Bonds, whether theretofore or thereafter authenticated and delivered hereunder. The Trustee shall not be liable for any such determination made in good faith.

It shall not be necessary for the required percentage of owners of Bonds under this Section to approve the particular form of any proposed Supplemental Financing Agreement, but it shall be sufficient if such act shall approve the substance thereof.

Section 11.3. Execution of Supplemental Financing Agreements. In executing or consenting to any Supplemental Financing Agreement permitted by this Article, the Board and the Trustee shall be entitled to receive, and, subject to **Article VIII** of the Indenture, shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such Supplemental Financing Agreement is authorized and permitted by and in compliance with this Financing Agreement and the Indenture. The Trustee may, but shall not be obligated to, consent to any such Supplemental Financing Agreement which affects the Trustee's own rights, duties or immunities under this Financing Agreement, the other Transaction Documents or otherwise.

Section 11.4. Effect of Supplemental Financing Agreements. Upon the execution of any Supplemental Financing Agreement under this Article, this Financing Agreement shall be modified in accordance therewith and such Supplemental Financing Agreement shall form a part of this Financing Agreement for all purposes; and the City, the Board, the Trustee and every owner of Bonds theretofore or thereafter authenticated and delivered under the Indenture shall be bound thereby.

Section 11.5. Reference in Bonds to Supplemental Financing Agreements. Bonds authenticated and delivered after the execution of any Supplemental Financing Agreement pursuant to this Article may, and if required by the Trustee shall, bear a notation in form approved by the Trustee as to any matter provided for in such Supplemental Financing Agreement. If the Board shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Board, to any such Supplemental Financing Agreement may be prepared and executed by the Board and authenticated and delivered by the Trustee in exchange for Outstanding Bonds.

ARTICLE XII

MISCELLANEOUS

Section 12.1. Authorized Representatives. Whenever under this Financing Agreement the approval of the Board is required or the Board is required or permitted to take some action, such approval shall be given or such action shall be taken by the Board Representative, and the City and the Trustee shall be authorized to act on any such approval or action. Any approval shall not be unreasonably withheld or delayed.

Whenever under this Financing Agreement the approval of the City is required or the City is required or permitted to take some action, such approval shall be given or such action shall be taken by the City Representative, and the Board and the Trustee shall be authorized to act on any such approval or action.

Section 12.2. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered by hand delivery or overnight delivery service or received by registered or certified mail, postage prepaid, return receipt requested, addressed as specified in **Section 1101** of the Indenture. A duplicate copy of each notice, certificate or other communication given hereunder to any party mentioned in said **Section 1101** shall be given to all other parties mentioned therein (other than the bondowners unless a copy is required to be furnished to them by other provisions of this Financing Agreement). The Board, the City or the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent to it.

Section 12.3. Performance Date Not a Business Day. If any date for the payment of principal of, or redemption premium, if any, or interest on the Bonds or the taking of any other action hereunder is not a Business Day, then such payment shall be due, or such action shall be taken, on the first Business Day thereafter with the same force and effect as if made on the date fixed for payment or performance.

Section 12.4. Binding Effect. This Financing Agreement shall inure to the benefit of and shall be binding upon the Board and the City and their respective successors and assigns.

Section 12.5. Execution in Counterparts. This Financing Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.6. No Pecuniary Liability. All covenants, obligations and agreements of the City contained in this Financing Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future councilmember, commissioner, director, officer, agent or employee of the City other than in their official capacity.

Section 12.7. Extent of Covenants of the Board; No Personal or Pecuniary Liability. All covenants, obligations and agreements of the Board contained in this Financing Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future director, officer, agent or employee of the Board in other than his official capacity, and no official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Board contained in this Financing Agreement or in the Indenture. No provision, covenant or agreement contained in this Financing Agreement, the Indenture or the Bonds, or any obligation herein or therein imposed upon the Board, or the breach thereof, shall constitute or give rise to or impose upon the Board a pecuniary liability or a charge. No provision hereof shall be construed to impose a charge against the general credit of the Board or any personal or pecuniary liability upon any director, officer, agent or employee of the Board.

Section 12.8. Net Loan. Subject to the limitations described in **Sections 3.5, 3.7** and **4.1**, the parties hereto agree (a) that the payments of Loan Payments are designed to provide the Board and the Trustee with moneys adequate in amount to pay all principal of, purchase price, redemption premium, if any, and interest accruing on the Bonds as the same become due and payable, (b) that to the extent that the payments of Loan Payments are not sufficient to provide the Board and the Trustee with funds sufficient for the purposes aforesaid, the City shall be obligated to pay (subject to the limitations set forth in **Section 3.5** hereof) to, and they do hereby covenant and agree to pay, upon demand therefor, as Additional Payments, such further moneys, in cash, as may from time to time be required for such purposes, and (c) that if after the principal of, redemption premium, if any, and interest on the Bonds and all costs incident to the payment of the Bonds have been paid in full (including all Additional Payments) the Trustee or the Board holds unexpended funds received in accordance with the terms hereof, such unexpended funds shall, after payment therefrom of all sums then due and owing by the City under the terms of this Financing Agreement, be distributed in accordance with **Article IV** of the Indenture.

Section 12.9. Complete Agreement. The Board and the City understand that 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 the Board and the City from misunderstanding or disappointment, any agreements the Board and the City reach covering such matters are contained in this Financing Agreement, which is the complete and exclusive statement of the agreement between the Board and the City, except as the Board and the City may later agree in writing to modify this Financing Agreement.

Section 12.10. Severability. If any provision of this Financing Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into or taken thereunder, or any application of such provision, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Financing Agreement or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into, or

taken, each of which shall be construed and enforced as if such illegal or invalid portion were not contained herein. Such illegality or invalidity of any application thereof shall not affect any legal and valid application thereof, and each such provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 12.11. Governing Law. This Financing Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

Section 12.12. Third Party Beneficiaries. The Trustee and the bondowners shall be deemed to be third party beneficiaries under this Financing Agreement.

Section 12.13. Electronic Storage of Documents The Board and the City agree that the transaction described herein may be conducted and related documents may be stored by electronic means.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the **MISSOURI DEVELOPMENT FINANCE BOARD** and the **CITY OF INDEPENDENCE, MISSOURI** have caused this instrument to be executed on their behalf all as of the date first above written.

MISSOURI DEVELOPMENT FINANCE BOARD

(Seal)

By: _____
Acting Executive Director

CITY OF INDEPENDENCE, MISSOURI

(Seal)

By: _____
City Manager

ATTEST:

By: _____
City Clerk

TAX COMPLIANCE AGREEMENT

Dated as of October 1, 2021

Among

**MISSOURI DEVELOPMENT FINANCE BOARD,
CITY OF INDEPENDENCE, MISSOURI,**

And

**UMB BANK, N.A.,
as Trustee**

**[\$[Principal Amount]
Missouri Development Finance Board
Infrastructure Facilities Refunding Revenue Bonds
(City of Independence, Missouri – Annual Appropriation
Sewer System Revenue Bonds)
Series 2021A**

TAX COMPLIANCE AGREEMENT

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Exhibit A: Debt Service Schedule and Proof of Bond Yield

Exhibit B: IRS Form 8038-G

Schedule A -- Attachment to Form-8038G

Exhibit C: Description of Property Comprising the Financed Facility

Exhibit D: Sample Annual Compliance Checklist

* * *

TAX COMPLIANCE AGREEMENT

THIS TAX COMPLIANCE AGREEMENT (the “Tax Agreement”), entered into as of October 1, 2021, among the **MISSOURI DEVELOPMENT FINANCE BOARD**, a body corporate and politic duly organized and existing under the laws of the State of Missouri (the “Board”), the **CITY OF INDEPENDENCE, MISSOURI**, a constitutional charter city and political subdivision of the State of Missouri (the “City”), and **UMB BANK, N.A.**, a state banking corporation duly organized and existing under the laws of the State of Missouri, as trustee (the “Trustee”).

RECITALS

1. This Tax Agreement is being executed and delivered in connection with the issuance by the Board of \$[Principal Amount] principal amount of Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021A (the “Bonds”), under a Bond Trust Indenture dated the date of this Tax Agreement (the “Indenture”) between the Board and the Trustee, for the purpose of making a loan of the proceeds of such Bonds to the City under a Financing Agreement dated the date of this Tax Agreement (the “Financing Agreement”) between the Board and the City, to provide funds for certain purposes as described in this Tax Agreement and in the Indenture and Financing Agreement.

2. The Internal Revenue Code of 1986, as amended (the “Code”), and the applicable Regulations and rulings issued by the U.S. Treasury Department (the “Regulations”), impose certain limitations on the uses and investment of the Bond proceeds and of certain other money relating to the Bonds and set forth the conditions under which the interest on the Bonds will be excluded from gross income for federal income tax purposes.

3. The Board and the Trustee are entering into this Tax Agreement in order to set forth certain facts, covenants, representations, and expectations relating to the use of Bond proceeds and the property financed or refinanced with those proceeds and the investment of the Bond proceeds and of certain other related money, in order to establish and maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes.

4. The Board adopted a Tax-Exempt Financing Compliance Policy and Procedure on March 26, 2012 (the “Tax Compliance Procedure”) for the purpose of setting out general procedures to continuously monitor and comply with the federal income tax requirements set out in the Code and the Regulations.

5. This Tax Agreement is entered into as required by the Tax Compliance Procedure to set out specific tax compliance procedures applicable to the Bonds.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, covenants and agreements set forth in this Tax Agreement, the Board and the Trustee represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. Except as otherwise provided in this Tax Agreement or unless the context otherwise requires, capitalized words and terms used in this Tax Agreement have the same meanings as set forth in the Indenture, and certain other words and phrases have the meanings assigned in Code §§ 103, 141-150 and the Regulations. The following words and terms used in this Tax Agreement have the following meanings:

“Adjusted Gross Proceeds” means the Gross Proceeds of the Bonds reduced by amounts (1) in a Bona Fide Debt Service Fund or a reasonably required reserve or replacement fund, (2) that as of the Issue Date are not expected to be Gross Proceeds, but which arise after the end of the applicable spending period, and (3) representing grant repayments or sale or Investment proceeds of any purpose Investment.

“Annual Compliance Checklist” means a checklist for the Bonds designed to measure compliance with the requirements of this Tax Agreement and the Tax Compliance Procedure after the Issue Date as further described in **Section 4.01** and substantially in the form attached as **Exhibit D**.

“Board” means the Missouri Development Finance Board and its successors and assigns or any body, agency or instrumentality of the State of Missouri succeeding to or charged with the powers, duties and functions of the Board.

“Bona Fide Debt Service Fund” means a fund, which may include Bond proceeds, that (a) is used primarily to achieve a proper matching of revenues with principal and interest payments within each Bond Year; and (b) is depleted at least once each Bond Year, except for a reasonable carryover amount not to exceed the greater of (1) the earnings on the fund for the immediately preceding Bond Year, or (2) one-twelfth of the principal and interest payments on the Bonds for the immediately preceding Bond Year.

“Bond” or **“Bonds”** means any Bond or Bonds described in the recitals, authenticated and delivered under the Indenture.

“Bond Compliance Officer” means the person named in the Tax Compliance Procedure.

“Bond Counsel” means Gilmore & Bell, P.C., or other firm of nationally recognized bond counsel acceptable to the Board and the City.

“Bond Year” means each one-year period (or shorter period for the first Bond Year) ending November 1, or another one-year period selected by the City.

“City” means the City of Independence, Missouri, a constitutional charter city and political subdivision of the State of Missouri, and its successors and assigns.

“Code” means the Internal Revenue Code of 1986, as amended.

“Computation Date” means each date on which arbitrage rebate for the Bonds is computed. The City may treat any date as a Computation Date, subject to the following limits:

- (a) the first rebate installment payment must be made for a Computation Date not later than 5 years after the Issue Date;

- (b) each subsequent rebate installment payment must be made for a Computation Date not later than five years after the previous Computation Date for which an installment payment was made; and
- (c) the date the last Bond is discharged is the final Computation Date.

The City selects October 1, 2026, as the first Computation Date but reserves the right to select a different date consistent with the Regulations.

“Costs of Issuance Account” means the Series 2021A Costs of Issuance Account in the Missouri Development Finance Board – City of Independence, Missouri – Sewer System Costs of Issuance Fund, established pursuant to the Indenture.

“Debt Service Fund” means the Series 2021A Debt Service Account in the Missouri Development Finance Board – City of Independence, Missouri – Sewer System Debt Service Fund, established pursuant to the Indenture.

“Debt Service Reserve Fund” means the Series 2021A Debt Service Reserve Account in the Missouri Development Finance Board – City of Independence, Missouri – Sewer System Debt Service Reserve Fund, established pursuant to the Indenture.

“Escrow Agreement” means the Escrow Trust Agreement dated October 1, 2021, among the Board, the City and the Trustee related to the refunding of the Refunded Obligations.

“Escrow Fund” means the fund by that name established under the Escrow Agreement.

“Final Written Allocation” means the written allocation of expenditures of proceeds of the Original Obligations as set forth on **Exhibit C**.

“Financed Facility” means any of the property financed or refinanced with the proceeds of the Original Obligations as described on **Exhibit C**.

“Financing Agreement” means the Financing Agreement of even date herewith between the Board and the City.

“Gross Proceeds” means (a) sale proceeds (any amounts actually or constructively received by the Board from the sale of the Bonds, including amounts used to pay underwriting discount or fees, but excluding pre-issuance accrued interest), (b) Investment proceeds (any amounts received from investing sale proceeds or other Investment proceeds), (c) any amounts held in a sinking fund for the Bonds, (d) any amounts held in a pledged fund or reserve fund for the Bonds, and (e) any other replacement proceeds.

Specifically, Gross Proceeds includes (but is not limited to) amounts held in the following funds and accounts:

- (1) Debt Service Reserve Fund.
- (2) Costs of Issuance Fund.
- (3) Debt Service Fund.
- (4) Escrow Fund (to the extent funded with sale proceeds or investment proceeds of the Bonds).

- (5) Rebate Fund (to the extent funded with sale proceeds or investment proceeds of the Bonds).

“Guaranteed Investment Contract” is any Investment with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate, including any agreement to supply Investments on two or more future dates (*e.g.*, a forward supply contract).

“Indenture” means the Bond Trust Indenture as originally executed by the Board and the Trustee, as amended and supplemented in accordance with the provisions of the Indenture.

“Investment” means any security, obligation, annuity contract or other Investment-type property that is purchased directly with, or otherwise allocated to, Gross Proceeds, including the Investment element of an interest rate cap agreement. Such term does not include a tax-exempt bond, except for “specified private activity bonds” as such term is defined in Code § 57(a)(5)(C), but does include the Investment element of most interest rate caps.

“IRS” means the United States Internal Revenue Service.

“Issue Date” means October __, 2021.

“Loan” means the loan of proceeds made by the Board to the City under the Financing Agreement.

“Management Agreement” means a legal agreement defined in Regulations § 1.141-3(b) as a management, service, or incentive payment contract with an entity that provides services involving all or a portion of any function of the Financed Facility, such as a contract to manage the entire Financed Facility or a portion of the Financed Facility. Contracts for services that are solely incidental to the primary governmental function of the Financed Facility (for example, contracts for janitorial, office equipment repair, billing, or similar services), however, are not treated as Management Agreements.

“Measurement Period” means, with respect to each item of property financed as part of the Financed Facility with proceeds of the Original Obligations, the period beginning on the later of (a) the issue date of the Original Obligations or (b) the date the property was or will be placed in service, and ending on the earlier of (1) the final maturity date of the Bonds or (2) the end of the expected economic useful life of the property.

“Minor Portion” means the lesser of \$100,000 or 5% of the sale proceeds of the Bonds.

“Net Proceeds” means the sale proceeds of the Bonds (excluding pre-issuance accrued interest), less any proceeds deposited in a reasonably required reserve or replacement fund, plus all Investment earnings on such sale proceeds.

“Non-Qualified Use” means use of Bond proceeds or the Financed Facility in a trade or business carried on by any Non-Qualified User. The rules set out in Regulations § 1.141-3 determine whether Bond proceeds or the Financed Facility are “used” in a trade or business. Generally, ownership, a lease, or any other use that grants a Non-Qualified User a special legal right or entitlement with respect to the Financed Facility, will constitute use under Regulations § 1.141-3.

“Non-Qualified User” means any person or entity other than a Qualified User.

“Official Intent Date” means July 20, 2010, as described in **Section 2.2(s)**.

“Opinion of Bond Counsel” means the written opinion of Gilmore & Bell, P.C. or other nationally recognized firm of bond counsel. Unless otherwise specifically noted herein an Opinion of Bond Counsel must conclude that the action or proposed action or the failure to act or proposed failure to act for which the opinion is required will not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes.

“Output Contract” is defined in Regulations § 1.141-7 and generally includes any contract with a Non-Qualified User that provides for the purchase of the output of Financed Facility. A similar contract with a Qualified User is not an Output Contract.

“Original Obligations” means the Series 2012B Bonds, which was the first issue of tax-exempt governmental bonds that financed or refinanced a portion of the Financed Facility.

“Post-Issuance Tax Requirements” means those requirements related to the use of proceeds of the Bonds, the use of the Financed Facility and the investment of Gross Proceeds after the Issue Date of the Bonds.

“Project” means all of the property acquired, developed, constructed, renovated, and equipped by the City using proceeds of the Original Obligations and Qualified Equity, as described on **Exhibit C**.

“Qualified Equity” means funds that are not derived from proceeds of a tax-exempt financing that are spent on the Project at any time during the period beginning not earlier than the later of (a) 60 days prior to the Official Intent Date or (b) three years prior to the Issue Date, and ending not later than the date the Project is capable of and actually used at substantially its designed level. Qualified Equity excludes an ownership interest in real property or tangible personal property.

“Qualified Use Agreement” means any of the following:

(1) A lease or other short-term use by members of the general public who occupy the Financed Facility on a short-term basis in the ordinary course of the City’s governmental purposes.

(2) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Facility for a period up to 200 days in length pursuant to an arrangement whereby (a) the use of the Financed Facility under the same or similar arrangements is predominantly by natural persons who are not engaged in a trade or business and (b) the compensation for the use is determined based on generally applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed. Any Qualified User or Non-Qualified User using all or any portion of the Financed Facility under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(3) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Facility for a period up to 100 days in length pursuant to arrangements whereby (a) the use of the property by the person would be general public use but for the fact that generally applicable and uniformly applied rates are not reasonably available to natural persons not engaged in a trade or business, (b) the compensation for the use under the arrangement is determined based on applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed, and (c) the Financed Facility was not constructed for a principal purpose of providing the property for use by that Qualified User or Non-Qualified User. Any Qualified User or Non-Qualified User using all or any portion of the Financed Facility under this

type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(4) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Facility for a period up to 50 days in length pursuant to a negotiated arm's-length arrangement at fair market value so long as the Financed Facility was not constructed for a principal purpose of providing the property for use by that person.

“Qualified User” means a State, territory, possession of the United States, the District of Columbia, or any political subdivision thereof, or any instrumentality of such entity, but it does not include the United States or any agency or instrumentality of the United States.

“Rebate Analyst” means Gilmore & Bell, P.C. or any successor Rebate Analyst selected pursuant to this Tax Agreement.

“Rebate Fund” means the Missouri Development Finance Board – City of Independence, Missouri – Sewer System Rebate Fund, established pursuant to the Indenture.

“Refunded Obligations” means the \$30,430,000 outstanding principal amount of the Series 2012B Bonds.

“Regulations” means all Regulations issued by the U.S. Treasury Department to implement the provisions of Code §§ 103 and 141 through 150 and applicable to the Bonds.

“Series 2012B Bonds” means the \$37,035,000 original principal amount Infrastructure Facilities Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2012B, issued August 30, 2012, the proceeds of which were used to finance new money capital expenditures.

“Tax Agreement” means this Tax Compliance Agreement as it may from time to time be amended and supplemented in accordance with its terms.

“Tax Compliance Procedure” means the Board’s Tax-Exempt Financing Compliance Policy and Procedure, dated March 26, 2012.

“Tax-Exempt Bond File” means documents and records for the Bonds, the Refunded Obligations and the Original Obligations, maintained by the Bond Compliance Officer pursuant to the Tax Compliance Procedure and this Tax Agreement.

“Transcript” means the Transcript of Proceedings relating to the authorization and issuance of the Bonds.

“Trustee” means UMB Bank, N.A., and its successor or successors and any other corporation or association which at any time may be substituted in its place at the time serving as trustee under the Indenture.

“Underwriter” means Morgan Stanley & Co. LLC, underwriter of the Bonds.

“Yield” means yield on the Bonds, computed under Regulations § 1.148-4, and yield on an Investment, computed under Regulations § 1.148-5.

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS

Section 2.1. Representations and Covenants of the Board. The Board represents and covenants to the City and the Trustee as follows:

- (a) *Organization and Authority.* The Board (1) is a body corporate and politic organized and existing under the laws of the State of Missouri, and (2) has lawful power and authority to issue the Bonds for the purposes set forth in the Indenture, to enter into, execute and deliver the Indenture, the Financing Agreement, the Bonds, and this Tax Agreement and to carry out its obligations under this Tax Agreement and under such documents, and (3) by all necessary action has been duly authorized to execute and deliver the Indenture, the Financing Agreement, the Bonds, and this Tax Agreement, acting by and through its duly authorized officials.
- (b) *Tax-Exempt Status of Bonds—General Representation and Covenants.* In order to maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes, the Board (1) will take whatever action, and refrain from whatever action, necessary to comply with the applicable requirements of the Code; (2) will not use or invest, or permit the use or Investment of, any Bond proceeds, other money held under the Indenture, or other funds of the Board, in a manner that would violate applicable provisions of the Code; and (3) will not use, or permit the use of, any portion of the Financed Facility in a manner that would cause any Bond to become a “private activity bond” as defined in Code § 141.
- (c) *IRS Form 8038-G.* Attached as **Exhibit B** is a copy of IRS Form 8038-G (Information Return for Tax-Exempt Governmental Obligations) that is being executed by a representative of the Board and which is being filed with the Internal Revenue Service in connection with the issuance of the Bonds as required by Code § 149(e). Bond Counsel prepared Form 8038-G in connection with the issuance of the Bonds. The Board knows of no inaccuracies in the Form 8038-G prepared by Bond Counsel. The Qualified Users of the proceeds of the Bonds and their EIN numbers are set out on the attachment to IRS Form 8038-G.
- (d) *Registered Bonds.* The Indenture requires that all of the Bonds will be issued and held in registered form within the meaning of Code § 149(a).
- (e) *Hedge Bonds.* Based solely on the representations of the City, at least 85% of the net sale proceeds (the sale proceeds of the Original Obligations less any sale proceeds invested in a reserve fund) of the Original Obligations were used to carry out the governmental purpose of the Original Obligations within 3 years after the issue date of the Original Obligations, and not more than 50% of the proceeds of the Original Obligations were invested in Investments having a substantially guaranteed Yield for 4 years or more.
- (f) *Single Issue.* The Bonds constitute a single “issue” under Regulations § 1.150-1(c). No other debt obligations of the Board (1) are being sold within 15 days of the sale of the Bonds, (2) are being sold under the same plan of financing as the Bonds, and (3) are expected to be paid from substantially the same source of funds as the Bonds (disregarding guarantees from unrelated parties, such as bond insurance).

- (g) *Bank Qualified Tax-Exempt Obligation.* The Bonds are not “qualified tax exempt obligations” under Code § 265(b)(3).
- (h) *Board Reliance on Other Parties.* The expectations, representations and covenants of the Board concerning uses of Bond proceeds and certain other moneys described in this Tax Agreement and other matters are based in whole or in part upon covenants, representations and certifications of the City and other parties set forth in this Tax Agreement or exhibits to this Tax Agreement. Although the Board has made no independent investigation of the representation of other parties, the Board is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation made in this Tax Agreement or exhibits to this Tax Agreement.
- (i) *Compliance with Future Tax Requirements.* The Board understands that the Code and the Regulations may impose new or different restrictions and requirements on the Board in the future. The Board will comply with such future restrictions that are necessary to maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes.

Section 2.2. Representations and Covenants of the City. The City represents and covenants to the Board and the Trustee as follows:

- (a) *Organization and Authority.* The City (1) is a constitutional charter city and political subdivision duly organized and validly existing under the laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver the Financing Agreement and this Tax Agreement and to carry out its obligations under such agreements, and (3) by all necessary action has been duly authorized to execute and deliver the Financing Agreement and this Tax Agreement, acting by and through its duly authorized officials.
- (b) *Tax-Exempt Status of Bonds–General Representation and Covenants and Allocation of Proceeds to Project.*

(1) In order to maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes, the City (1) will take whatever action, and refrain from whatever action, necessary to comply with the applicable requirements of the Code; (2) will not use or invest, or permit the use or Investment of, any Bond proceeds, other money held under the Indenture, or other funds of the City, in a manner that would violate applicable provisions of the Code; and (3) will not use, or permit the use of, any portion of the Financed Facility in a manner that would cause any Bond to become a “private activity bond” as defined in Code § 141.

(2) The City financed the Project with proceeds of the Original Obligations and Qualified Equity. For purposes of the covenants in this **Section 2.1** relating to Non-Qualified Use of the Project, any Non-Qualified Use shall be treated as first allocated entirely to the portion of the Project financed with Qualified Equity, and then, but only to the extent of any excess Non-Qualified Use, to the portion of the Project financed by the Original Obligations (that is, the Financed Facility).

- (c) *Governmental Obligations–Use of Proceeds.* Throughout the Measurement Period, all of the Financed Facility has been and is expected to be owned by the City or another

Qualified User. Throughout the Measurement Period, no portion of the Financed Facility has been or is expected to be used in a Non-Qualified Use. Throughout the Measurement Period, the City has not and will not permit any Non-Qualified Use of the Financed Facility without first obtaining an Opinion of Bond Counsel.

- (d) *Governmental Obligations–Private Security or Payment.* As of the Issue Date, the City expects that none of the principal of and interest on the Bonds will be and the payment of principal of and interest on the Refunded Obligations and on all other obligations which directly or indirectly refinanced the Original Obligations has not been (under the terms of the Bonds or any underlying arrangement) directly or indirectly:
- (1) secured by (i) any interest in property used or to be used for a private business use, or (ii) any interest in payments in respect of such property; or
 - (2) derived from payments (whether or not such payments are made to the City) in respect of property, or borrowed money, used or to be used for a private business use.

For purposes of the forgoing, taxes of general application, including payments in lieu of taxes, are not treated as private payments or as private security. The City will not permit any private security or payment with respect to the Bonds without first obtaining an Opinion of Bond Counsel.

- (e) *No Private Loan.* Not more than 5% of the Net Proceeds of the Bonds will be loaned directly or indirectly to any Non-Qualified User.
- (f) *Management Agreements.* As of the Issue Date, the City has no Management Agreements with Non-Qualified Users. During the Measurement Period, the City has not and will not enter into or renew any Management Agreement with any Non-Qualified User without first obtaining an Opinion of Bond Counsel.
- (g) *Leases.* As of the Issue Date, the City has not entered into any leases of any portion of the Financed Facility other than Qualified Use Agreements. During the Measurement Period, the City has not and will not enter into or renew any lease or similar agreement or arrangement other than a Qualified Use Agreement without first obtaining an Opinion of Bond Counsel.
- (h) *Output Contracts.* As of the Issue Date, the City does not have any Output Contract. During the Measurement Period, the City has not and will not enter into any Output Contract without first obtaining an Opinion of Bond Counsel.
- (i) *Limit on Maturity of Bonds.* A list of the assets included in the Financed Facility and a computation of the “average reasonably expected economic life” is attached to this Tax Agreement as **Exhibit C**. Based on this computation, the “average maturity” of the Bonds, as computed by the Underwriter, does not exceed 120% of the average reasonably expected economic life of the Financed Facility. The “average reasonably expected economic life” of the Financed Facility was determined as follows: the average economic life of the Financed Facility as of the issue date of the Original Obligations was first multiplied by 120%, then reduced by the number of years elapsed from the issue date of the Original Obligations to the Issue Date. The “average maturity” of the Bonds, as

computed by Bond Counsel, does not exceed the average reasonably expected economic life of the Financed Facility, as such terms are used in Code § 147(b).

- (j) *Compliance with Future Tax Requirements.* The City understands that the Code and the Regulations may impose new or different restrictions and requirements on the City in the future. The City will comply with such future restrictions that are necessary to maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes.
- (k) *Single Issue; No Other Obligations of the City.* The Bonds constitute a single “issue” under Regulations § 1.150-1(c). No other debt obligations of the City (1) are being sold within 15 days of the sale of the Bonds, (2) are being sold under the same plan of financing as the Bonds, and (3) are expected to be paid from substantially the same source of funds as the Bonds (disregarding guarantees from unrelated parties, such as bond insurance).
- (l) *Registered Bonds.* All of the Bonds will be issued and held in registered form within the meaning of Code § 149(a).
- (m) *Bonds Not Federally Guaranteed.* The City will not take any action or permit any action to be taken which would cause any Bond to be “federally guaranteed” within the meaning of Code § 149(b).
- (n) *Hedge Bonds.* At least 85% of the net sale proceeds (the sale proceeds of the Original Obligations less any sale proceeds invested in a reserve fund) of the Original Obligations were used to carry out the governmental purpose of the Original Obligations within 3 years after the issue date of the Original Obligations, and not more than 50% of the proceeds of the Original Obligations were invested in Investments having a substantially guaranteed Yield for 4 years or more.
- (o) *Interest Rate Swap.* As of the Issue Date, the City has not entered into an interest rate swap agreement or any other similar arrangement designed to modify its interest rate risk with respect to the Bonds. The City will not enter into any such arrangement in the future without obtaining an Opinion of Bond Counsel.
- (p) *Guaranteed Investment Contract.* As of the Issue Date of the Bonds, the City does not expect to enter into a Guaranteed Investment Contract for any Gross Proceeds of the Bonds. The City will be responsible for complying with **Section 4.2(d)** if it decides to enter into a Guaranteed Investment Contract at a later date.
- (q) *Reports to IRS; Form 8038-G.* The City will assist the Board in filing all appropriate returns, reports and attachments to income tax returns required by the Code, including without limitation the Information Return for Tax-Exempt Governmental Obligations (Form 8038-G). The information contained in Parts II through VI of IRS Form 8038-G, attached as **Exhibit B**, was provided to the Board and Bond Counsel by the City, and such information is true, complete and correct as of the Issue Date.
- (r) *Arbitrage Certifications.* The facts, estimates and expectations recited in **Article III** of this Tax Agreement, regarding the purpose of the Bonds, the investment and expenditure of Bond proceeds, the Financed Facility, the funds and accounts created in the Indenture, the yield on investments and the computation and payment of arbitrage rebate, are true

and accurate as of the Issue Date; and the City believes that the estimates and expectations recited in such Article are reasonable as of the Issue Date. The Board, the Trustee, Gilmore & Bell, P.C., Bond Counsel, and the Underwriter may rely on such statements and expectations. The City does not expect that the Bond proceeds will be used in a manner that would cause any Bond to be an “arbitrage bond” within the meaning of Code § 148; and to the best of the City’s knowledge and belief, there are no other facts, estimates or circumstances that would materially change such expectations.

(s) *Expenditure of Bond Proceeds.*

(1) Allocation. The City evidenced each allocation of the proceeds of the Original Obligations to an expenditure in writing. No allocation was made more than 18 months following the later of (i) the date of the expenditure or (ii) the date the Financed Facility was placed in service.

(2) Reimbursement of Expenditures; Official Intent. On the Official Intent Date, the governing body of the City adopted a resolution declaring the intent of the City to finance the Financed Facility with tax-exempt bonds and to reimburse the City for expenditures made for the Financed Facility prior to the issuance of those bonds. No portion of the Net Proceeds of the Original Obligations was used to reimburse an expenditure paid by the City more than 60 days prior to the date the resolution was adopted.

Section 2.3. Representations and Covenants of the Trustee. The Trustee represents and covenants to the Board and the City as follows:

- (a) The Trustee will comply with the provisions of this Tax Agreement that apply to it as Trustee and any written letter or opinion of Bond Counsel, specifically referencing the Bonds and received by the Trustee, that sets forth any action necessary to comply with any statute, regulation or ruling that may apply to it as Trustee and relating to reporting requirements or other requirements necessary to maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes.
- (b) The Trustee, acting on behalf of the Board and the City, may from time to time cause a firm of attorneys, consultants or independent accountants or an Investment banking firm to provide the Trustee with such information as it may request in order to determine all matters relating to (a) the Yield on the Bonds as it relates to any data or conclusions necessary to verify that the Bonds are not “arbitrage bonds” within the meaning of Code § 148, and (b) compliance with arbitrage rebate requirements of Code § 148(f). The City will pay all costs and expenses incurred in connection with supplying the foregoing information.
- (c) The Trustee, acting on behalf of the City, will retain records related to the investment and expenditure of Gross Proceeds held in funds and accounts maintained by the Trustee and any records provided to the Trustee by the City related to the Post-Issuance Tax Requirements in accordance with **Section 4.2(a)** of this Tax Agreement. The Trustee will retain these records until three years following the final maturity of the Bonds or any obligation issued to refund the Bonds; *provided*, however, that if the Trustee is not retained to serve as trustee for any obligations issued to refund the Bonds, then the Trustee may satisfy its record retention duties under this **Section 2.3(c)** by providing

copies of all such records related to the Bonds to the trustee for the refunding obligations or other party agreed upon by the City.

Section 2.4. Survival of Representations and Covenants. All representations, covenants and certifications of the Board, the City and the Trustee contained in this Tax Agreement or in any certificate or other instrument delivered by the Board, the City or the Trustee under this Tax Agreement, will survive the execution and delivery of such documents and the issuance of the Bonds, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations. The foregoing covenants of this Section will remain in full force and effect notwithstanding the defeasance of the Bonds.

ARTICLE III

ARBITRAGE CERTIFICATIONS AND COVENANTS

Section 3.1. General. The purpose of this Article is to certify, under Regulations § 1.148-2(b), the Board's and the City's expectations as to the sources, uses and Investment of Bond proceeds and other money, in order to support the Board's conclusion that the Bonds are not arbitrage bonds. The person executing this Tax Agreement on behalf of the Board is an officer of the Board responsible for issuing the Bonds.

Section 3.2. Reasonable Expectations. The facts, estimates and expectations set forth in this Article are based upon and in reliance upon the Board's understanding of the documents and certificates that comprise the Transcript, and the representations, covenants and certifications of the parties contained therein. To the Board's knowledge, the facts and estimates set forth in this Tax Agreement are accurate, and the expectations of the Board set forth in this Tax Agreement are reasonable. The Board has no knowledge that would cause it to believe that the representations, warranties and certifications described in this Tax Agreement are unreasonable or inaccurate or may not be relied upon.

Section 3.3. Purpose of Financing. The Bonds are being issued for the purpose of providing funds to (1) refund the Refunded Obligations, (2) fund a debt service reserve fund for the Bonds and (3) pay costs of issuance of the Bonds. The purpose of the refunding of the Refunded Obligations is to achieve interest cost savings through early redemption of the Refunded Obligations and to provide an orderly plan of financing.

Section 3.4. Funds and Accounts. The following funds and accounts have been established under the Indenture:

- (1) Costs of Issuance Fund.
- (2) Debt Service Fund.
- (3) Debt Service Reserve Fund.
- (4) Rebate Fund.

In addition, the Escrow Fund has been established pursuant to the Escrow Agreement.

Section 3.5. Amount and Use of Bond Proceeds.

- (a) *Amount of Bond Proceeds.* The total proceeds to be received by the Board from the sale of the Bonds will be as follows:

Principal Amount	\$[Principal Amount].00
Net Original Issue Discount	(0.00)
Underwriting Discount	<u>(0.00)</u>
Total Proceeds	\$0.00

(b) *Use of Bond Proceeds and Other Money.* The Bond proceeds are expected to be allocated to expenditures as follows:

- (1) \$ _____, equal to the Debt Service Reserve Requirement, will be deposited in the Debt Service Reserve Fund. **[**THIS WILL BE ADJUSTED IF A RESERVE POLICY IS USED.**]**
- (2) \$ _____ of Bond proceeds will be deposited in the Costs of Issuance Fund and used to pay costs of issuance.
- (3) \$ _____ of Bond proceeds, together with \$ _____ of funds from the debt service reserve fund established for the Series 2012B Bonds and \$ _____ of other funds provided by the City, will be deposited in the Escrow Fund and used in accordance with the Escrow Agreement to refund the Refunded Obligations.

Section 3.6. Multipurpose Issue. The Board is applying the arbitrage rules to separate financing purposes of the issue that have the same initial temporary period as if they constitute a single issue for purposes pursuant to Regulations § 1.148-9(h)(3)(i).

Section 3.7. No Advance Refunding. No proceeds of the Bonds will be used more than 90 days following the Issue Date to pay principal or interest on any other debt obligation.

Section 3.8. Current Refunding.

- (a) *Proceeds Used For Current Refunding.* Proceeds of the Bonds will be used to pay principal of and interest on the Refunded Obligations. All such proceeds shall be spent not later than 90 days after the Issue Date.
- (b) *Transferred Proceeds.* There are no unspent proceeds (sale proceeds, Investment proceeds or transferred proceeds) of the Refunded Obligations. Therefore, there are no transferred proceeds of the Bonds.

Section 3.9. Completion of the Financed Facility. The Financed Facility has previously been completed.

Section 3.10. Financing Agreement/Sinking Funds. The Board is loaning the Bond proceeds to the City under the Financing Agreement. The City is required under the Financing Agreement to make periodic payments to the Trustee in amounts sufficient to pay the principal of and interest on the Bonds. The Trustee will deposit such payments into the Debt Service Fund. Except for the Debt Service Fund and the Debt Service Reserve Fund neither the Board nor the City has established or expects to establish any sinking fund or other similar fund that is expected to be used to pay principal of or interest on the Bonds. The Debt Service Fund is used primarily to achieve a proper matching of revenues with principal

and interest payments on the Bonds within each Bond Year, and the Board and the City expect that the Debt Service Fund will qualify as a Bona Fide Debt Service Fund.

Section 3.11. Reserve, Replacement and Pledged Funds.

- (a) *Debt Service Reserve Fund.* The Indenture establishes a Debt Service Reserve Fund and requires that it be funded at the time of issuance of the Bonds in the amount equal to \$_____, the Debt Service Reserve Requirement. The amount to be held in the Debt Service Reserve Fund will not exceed the least of (1) 10% of the stated principal amount of the Bonds, (2) the maximum annual principal and interest requirements on the Bonds (determined as of the Issue Date, or (3) 125% of the average annual principal and interest requirements on the Bonds (determined as of the Issue Date). If the aggregate initial offering price of the Bonds to the public is less than 98% or more than 102% of par, such offering price must be used in clause (1) in lieu of the stated principal amount. Any amounts in the Debt Service Reserve Fund in excess of the Debt Service Reserve Requirement will be transferred to the Debt Service Fund. [**ADJUST IF RESERVE POLICY USED.**]
- (b) *No Other Replacement or Pledged Funds.* None of the Bond proceeds will be used as a substitute for other funds that were intended or earmarked to pay costs of the Financed Facility, and that instead has been or will be used to acquire higher Yielding Investments. Except for the Debt Service Fund and the Debt Service Reserve Fund there are no other funds pledged or committed in a manner that provides a reasonable assurance that such funds would be available for payment of the principal of or interest on the Bonds if the Board or the City encounters financial difficulty.

Section 3.12. Purpose Investment Yield. The Yield on the Loan does not exceed the Yield on the Bonds by more than 1/8%, as permitted by Regulations §1.148-2(d)(2)(i). In determining such Loan yield, “qualified administrative costs” of the Loan paid by the City are taken into account to increase payments for, and reduce receipts from, the Loan, as permitted by Regulations § 1.148-5(e)(3). “Qualified administrative costs” are (1) costs or expenses paid, directly or indirectly, to purchase, carry, sell or retire the Loan, and (2) costs of issuing, carrying or repaying the Bonds, and the underwriting fees; but fees paid to the Board are not qualified administrative costs.

Section 3.13. Issue Price and Yield on Bonds.

- (a) *Issue Price.* Based on the Underwriter’s certifications in the Underwriter’s Receipt for Bonds and Closing Certificate, the City hereby elects to establish the issue prices of the Bonds pursuant to Regulations § 1.148-1(f)(2)(i) (relating to the so-called “general rule”). Therefore, the aggregate issue price of the Bonds for such purpose is \$_____.
- (b) *Bond Yield.* Based on the offering prices, the Yield on the Bonds is _____%, as computed by Bond Counsel and shown on **Exhibit A**. Neither the Board nor the City has entered into an interest rate swap agreement with respect to any portion of the proceeds of the Bonds.

Section 3.14. Miscellaneous Arbitrage Matters.

- (a) *No Abusive Arbitrage Device.* The Bonds are not and will not be part of a transaction or series of transactions that has the effect of (1) enabling the Board or the City to exploit

the difference between tax-exempt and taxable interest rates to gain a material financial advantage, and (2) overburdening the tax-exempt bond market.

- (b) *No Over-Issuance.* The sale proceeds of the Bonds, together with expected Investment earnings thereon and other money contributed by the Board or the City, do not exceed the cost of the governmental purpose of the Bonds as described above.

Section 3.15. Conclusion. On the basis of the facts, estimates and circumstances set forth in this Tax Agreement, the Board does not expect that the Bond proceeds will be used in a manner that would cause any Bond to be an “arbitrage bond” within the meaning of Code § 148 and the Regulations.

ARTICLE IV

POST-ISSUANCE TAX REQUIREMENTS, POLICIES AND PROCEDURES

Section 4.1. General.

- (a) *Purpose.* The purpose of this **Article IV** is to set forth the policies and procedures governing compliance with the federal income tax requirements that apply after the Bonds are issued. The Board and the City recognize that interest on the Bonds will remain excludable from gross income only if Post-Issuance Tax Requirements are satisfied after the Issue Date. The Board and the City further acknowledge that written evidence substantiating compliance with Post-Issuance Tax Requirements must be retained in order to permit the Bonds to be refinanced with tax-exempt obligations and support the position that interest on the Bonds is excludable from gross income for federal income tax purposes in the event of an audit of the Bonds by the IRS.
- (b) *Written Policies and Procedures of the Board and the City.* The Board and the City intend for the Tax Compliance Procedure, as supplemented by this Tax Agreement, to be their primary written policies and procedures related to Post-Issuance Tax Requirements for the Bonds and to supplement any other general formal policies and procedures related to tax compliance previously established. The provisions of this Tax Agreement are intended to be consistent with the Tax Compliance Procedure. In the event of any inconsistency between the Tax Compliance Procedure and this Tax Agreement, the terms of this Tax Agreement will govern.
- (c) *City Responsible for Post-Issuance Tax Requirements.* The Board and the City acknowledge that the investment and expenditure of Bond proceeds are primarily within the control of the City, and that substantially all of the Bond proceeds are expected to finance property that will be owned and controlled by the City. For these reasons, the Board is relying on the City to carry out the Post-Issuance Tax Requirements as set forth in this Tax Agreement. The City hereby agrees to undertake these obligations.
- (d) *Bond Compliance Officer.* The Bond Compliance Officer will be responsible for working with the City and City officials, departments and administrators and for consulting with Bond Counsel, other legal counsel and outside experts to the extent necessary to comply with the Post-Issuance Tax Requirements.
- (e) *Cooperation of Board.* The Board will cooperate with the City regarding the Post-Issuance Tax Requirements and will take any action that is necessary to cause interest on

the Bonds to remain excludable from gross income for federal income tax purposes, including, without limitation, executing IRS Form 8038-T in connection with the payment of arbitrage rebate and participating in any federal income tax audit of the Bonds or similar proceedings under a “voluntary compliance agreement program” (VCAP) procedure or “remedial action” procedure pursuant to Regulations § 1.141-12. Prior to taking any such action, the Board is entitled to receive an Opinion of Bond Counsel, addressed to the Board, the City and the Trustee that the action will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

- (f) *Payment of Costs of Post-Issuance Tax Requirements.* The parties to this Tax Agreement understand and intend that all costs of the Post-Issuance Tax Requirements will be paid or reimbursed by the City. Neither the Board nor the Trustee is required to incur any cost in connection with any action taken related to the Post-Issuance Tax Requirements, and the Board and the Trustee will be entitled to recover from the City all legal and other fees and expenses incurred in connection with compliance with this **Article IV** pursuant to the provisions of the Indenture.

Section 4.2. Procedures Regarding Record Keeping.

- (a) *Record Keeping.* The City will maintain the Tax-Exempt Bond File for the Bonds in accordance with the Tax Compliance Procedure. Unless otherwise specifically instructed in an Opinion of Bond Counsel or to the extent otherwise provided in this Tax Agreement, the Bond Compliance Officer shall retain records related to Post-Issuance Tax Requirements until 3 years following the final maturity of the Bonds or any obligation issued to refund the Bonds. Any records maintained electronically must comply with Section 4.01 of Revenue Procedure 97-22, which generally provides that an electronic storage system must (1) ensure an accurate and complete transfer of the hardcopy records which indexes, stores, preserves, retrieves and reproduces the electronic records, (2) include reasonable controls to ensure integrity, accuracy and reliability of the electronic storage system and to prevent unauthorized alteration or deterioration of electronic records, (3) exhibit a high degree of legibility and readability both electronically and in hardcopy, (4) provide support for other books and records of the City and (5) not be subject to any agreement that would limit the ability of the IRS to access and use the electronic storage system on the Board’s premises. If requested, the City will provide the Board with a complete copy of the Tax-Exempt Bond File.
- (b) *Accounting and Allocation of Bond Proceeds to Expenditures.* Bond proceeds, and other money contributed by the City, will be used as described in **Section 3.5** and **3.8**. The City will maintain accounting records showing the investment and expenditure of this money as part of the Tax-Exempt Bond File in the level of detail required by the Tax Compliance Procedure. The Bond Compliance Officer has prepared written substantiation records of the allocation of proceeds of the Original Obligations to the Financed Facility. This allocation is summarized on **Exhibit C** and is intended to constitute the Final Written Allocation for the Original Obligations.
- (c) *Annual Compliance Checklist.* Attached as **Exhibit D** is a form of Annual Compliance Checklist for the Bonds. The Bond Compliance Officer, or someone designated by the Bond Compliance Officer, will prepare and complete an Annual Compliance Checklist for the Financed Facilities at least annually in accordance with the Tax Compliance

Procedure. In the event the Annual Compliance Checklist identifies a deficiency in compliance with the requirements of this Tax Agreement, the Bond Compliance Officer will consult with the Board and, in conjunction with the City, will take the actions identified in an Opinion of Bond Counsel or the Tax Compliance Procedure to correct any deficiency.

- (d) *Opinions of Bond Counsel.* The City is responsible for obtaining and delivering to the Board and the Trustee any Opinion of Bond Counsel required under the provisions of this Tax Agreement, including any Opinion of Bond Counsel required by this Tax Agreement or the annual compliance checklist.

Section 4.3. Temporary Periods/Yield Restriction. Except as described below, Gross Proceeds must not be invested at a Yield greater than the Yield on the Bonds:

- (a) *Cost of Issuance Fund.* Amounts held in the Costs of Issuance Fund may be invested without Yield restriction for 13 months.
- (b) *Debt Service Fund.* To the extent that the Debt Service Fund qualifies as a Bona Fide Debt Service Fund, money in such account may be invested without Yield restriction for 13 months after the date of deposit. Earnings on such amounts may be invested without Yield restriction for one year after the date of receipt of such earnings.
- (c) *Proceeds Allocable to Current Refunding.* Bond proceeds deposited in the Escrow Fund or otherwise allocable to a current refunding of the Refunded Obligations (see **Section 3.8**) may be invested without Yield restriction for up to 90 days after the Issue Date.
- (d) *Debt Service Reserve Fund.* Money in the Debt Service Reserve Fund may be invested without Yield restriction up to the least of (1) 10% of the stated principal amount of the Bonds, (2) the maximum annual principal and interest requirements on the Bonds (determined as of the Issue Date), or (3) 125% of the average annual principal and interest requirements on the Bonds (determined as of the Issue Date). If the aggregate initial offering price of the Bonds to the public is less than 98% or more than 102% of par, such offering price must be used in clause (1) in lieu of the stated principal amount.
- (e) *Minor Portion.* In addition to the amounts described above, Gross Proceeds not exceeding the Minor Portion may be invested without Yield restriction.

Section 4.4. Fair Market Value.

- (a) *General.* No Investment may be acquired with Gross Proceeds for an amount (including transaction costs) in excess of the fair market value of such Investment, or sold or otherwise disposed of for an amount (including transaction costs) less than the fair market value of the Investment. The fair market value of any Investment is the price a willing buyer would pay to a willing seller to acquire the Investment in a bona fide, arm's-length transaction. Fair market value will be determined in accordance with § 1.148-5 of the Regulations.
- (b) *Established Securities Market.* Except for Investments purchased for a Yield-restricted defeasance escrow, if an Investment is purchased or sold in an arm's-length transaction on an established securities market (within the meaning of Code § 1273), the purchase or

sale price constitutes the fair market value. Where there is no established securities market for an Investment, market value must be established using one of the paragraphs below. The fair market value of Investments purchased for a Yield-restricted defeasance escrow must be determined in a bona fide solicitation for bids that complies with § 1.148-5 of the Regulations.

- (c) *Certificates of Deposit.* The purchase price of a certificate of deposit (a “CD”) is treated as its fair market value on the purchase date if (1) the CD has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal, (2) the Yield on the CD is not less than the Yield on reasonably comparable direct obligations of the United States, and (3) the Yield is not less than the highest Yield published or posted by the CD issuer to be currently available on reasonably comparable CDs offered to the public.
- (d) *Guaranteed Investment Contracts.* The purchase price of a Guaranteed Investment Contract is treated as its fair market value on the purchase date if all of the following requirements are met:
 - (1) Bona Fide Solicitation for Bids. The Board or the Trustee makes a bona fide solicitation for the Guaranteed Investment Contract, using the following procedures:
 - (A) The bid specifications are in writing and are timely forwarded to potential providers, or are made available on an internet website or other similar electronic media that is regularly used to post bid specifications to potential bidders. A writing includes a hard copy, a fax, or an electronic e-mail copy.
 - (B) The bid specifications include all “material” terms of the bid. A term is material if it may directly or indirectly affect the Yield or the cost of the Guaranteed Investment Contract.
 - (C) The bid specifications include a statement notifying potential providers that submission of a bid is a representation (i) that the potential provider did not consult with any other potential provider about its bid, (ii) that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the Board, the City, the Trustee or any other person (whether or not in connection with the bond issue), and (iii) that the bid is not being submitted solely as a courtesy to the Board, the City, the Trustee or any other person, for purposes of satisfying the requirements of the Regulations.
 - (D) The terms of the bid specifications are “commercially reasonable.” A term is commercially reasonable if there is a legitimate business purpose for the term other than to increase the purchase price or reduce the Yield of the Guaranteed Investment Contract.
 - (E) The terms of the solicitation take into account the City’s reasonably expected deposit and draw-down schedule for the amounts to be invested.

- (F) All potential providers have an equal opportunity to bid. If the bidding process affords any opportunity for a potential provider to review other bids before providing a bid, then providers have an equal opportunity to bid only if all potential providers have an equal opportunity to review other bids. Thus, no potential provider may be given an opportunity to review other bids that is not equally given to all potential providers (that is no exclusive “last look”).
 - (G) At least three “reasonably competitive providers” are solicited for bids. A reasonably competitive provider is a provider that has an established industry reputation as a competitive provider of the type of Investments being purchased.
- (2) Bids Received. The bids received must meet all of the following requirements:
- (A) At least three bids are received from providers that were solicited as described above and that do not have a “material financial interest” in the issue. For this purpose, (i) a lead underwriter in a negotiated underwriting transaction is deemed to have a material financial interest in the issue until 15 days after the Issue Date of the issue, (ii) any entity acting as a financial advisor with respect to the purchase of the Guaranteed Investment Contract at the time the bid specifications are forwarded to potential providers has a material financial interest in the issue, and (iii) a provider that is a related party to a provider that has a material financial interest in the issue is deemed to have a material financial interest in the issue.
 - (B) At least one of the three bids received is from a reasonably competitive provider, as defined above.
 - (C) If an agent or broker is used to conduct the bidding process, the agent or broker did not bid to provide the Guaranteed Investment Contract.
- (3) Winning Bid. The winning bid is the highest yielding bona fide bid (determined net of any broker’s fees).
- (4) Fees Paid. The obligor on the Guaranteed Investment Contract certifies the administrative costs that it pays (or expects to pay, if any) to third parties in connection with supplying the Guaranteed Investment Contract.
- (5) Records. The City and the Trustee retains the following records with the bond documents until three years after the last outstanding Bond is redeemed:
- (A) A copy of the Guaranteed Investment Contract.
 - (B) The receipt or other record of the amount actually paid for the Guaranteed Investment Contract, including a record of any administrative costs paid by the Board or Trustee, and the certification as to fees paid, described in paragraph (d)(4) above.

- (C) For each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid, and the bid results.
 - (D) The bid solicitation form and, if the terms of Guaranteed Investment Contract deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose for the deviation.
- (e) *Other Investments.* If an Investment is not described above, the fair market value may be established through a competitive bidding process, as follows:
- (1) at least three bids on the Investment must be received from persons with no financial interest in the Bonds (*e.g.*, as underwriters or brokers); and
 - (2) the Yield on the Investment must be equal to or greater than the Yield offered under the highest bid.

Section 4.5. Certain Gross Proceeds Exempt from the Rebate Requirement.

- (a) *General.* A portion of the Gross Proceeds of the Bonds may be exempt from rebate pursuant to one or more of the following exceptions. The exceptions typically will not apply with respect to all Gross Proceeds of the Bonds and will not otherwise affect the application of the Investment limitations described in **Section 4.3**. Unless specifically noted, the obligation to compute, and if necessary, to pay rebate as set forth in **Section 4.6** applies even if a portion of the gross proceeds of the Bonds is exempt from the rebate requirement. To the extent all or a portion of the Bonds is exempt from Rebate the Rebate Analyst may account for such fact in connection with its preparation of a rebate report described in **Section 4.6**.
- (b) *Applicable Spending Exceptions.* The following optional rebate spending exceptions can apply to the Bonds: 6-month exception (Code § 148(f)(4)(B) and Regulation § 1.148-7(c)).
- (c) *Special Elections Made with Respect to Spending Exception Elections.* No special elections are being made in connection with the application of the spending exceptions.
- (d) *Bona Fide Debt Service Fund.* To the extent that the Debt Service Fund qualifies as a Bona Fide Debt Service Fund, Investment earnings in the account cannot be taken into account in computing arbitrage rebate.
- (e) *Documenting Application of Spending Exception.* At any time prior to the first Computation Date, the City may engage the Rebate Analyst to determine whether one or more spending exceptions has been satisfied, and the extent to which the City must continue to comply with **Section 4.6**.
- (f) *General Requirements for Spending Exception.* The following general requirements apply in determining whether a spending exception is met.
 - (1) Using Adjusted Gross Proceeds to pay principal of any Bonds is not taken into account as expenditure for purposes of meeting any of the spending tests.

- (2) The six-month spending exception generally is met if all Adjusted Gross Proceeds of the Bonds are spent within six months following the Issue Date. The test may still be satisfied even if up to 5% of the sale proceeds remain at the end of the initial six-month period, so long as this amount is spent within one year of the Issue Date.

Section 4.6. Computation and Payment of Arbitrage Rebate.

- (a) *Rebate Fund.* The Trustee will keep the Rebate Fund separate from all other funds and will administer the Rebate Fund under this Tax Agreement. Any Investment earnings derived from the Rebate Fund will be credited to the Rebate Fund, and any Investment loss will be charged to the Rebate Fund.
- (b) *Computation of Rebate Amount.* The Trustee will provide the Rebate Analyst Investment reports relating to each fund held by the Trustee that contains Gross Proceeds of the Bonds at such times as reports are provided to the Board, and not later than ten days following each Computation Date. The City will provide the Rebate Analyst with copies of Investment reports for any funds containing Gross Proceeds that are held by a party other than the Trustee annually as of the end of each Bond Year and not later than ten days following each Computation Date. Each Investment report provided to the Rebate Analyst will contain a record of each Investment, including (1) purchase date, (2) purchase price, (3) information establishing the fair market value on the date such Investment was allocated to the Bonds, (4) any accrued interest paid, (5) face amount, (6) coupon rate, (7) frequency of interest payments, (8) disposition price, (9) any accrued interest received, and (10) disposition date. Such records may be supplied in electronic form. The Rebate Analyst will compute rebate following each Computation Date and deliver a written report to the Trustee, the Board and the City together with an opinion or certificate of the Rebate Analyst stating that arbitrage rebate was determined in accordance with the Regulations. Each report and opinion will be provided not later than 45 days following the Computation Date to which it relates. In performing its duties, the Rebate Analyst may rely, in its discretion, on the correctness of financial analysis reports prepared by other professionals. If the sum of the amount on deposit in the Rebate Fund and the value of prior rebate payments is less than the arbitrage rebate due, the City will, within 55 days after such Computation Date, pay to the Trustee the amount of the deficiency for deposit into the Rebate Fund. If the sum of the amount on deposit in the Rebate Fund and the value of prior rebate payments is greater than the Rebate Amount, the Trustee will transfer such surplus in the Rebate Fund to the Debt Service Fund. After the final Computation Date or at any other time if the Rebate Analyst has advised the Trustee, any money left in the Rebate Fund will be paid to the City and may be used for any purpose not prohibited by law.
- (c) *Rebate Payments.* Within 60 days after each Computation Date, the Trustee must pay (but solely from money in the Rebate Fund or provided by the City) to the United States the rebate amount then due, determined in accordance with the Regulations. Each payment must be (1) accompanied by IRS Form 8038-T and such other forms, documents or certificates as may be required by the Regulations, and (2) mailed or delivered to the IRS at the address shown below, or to such other location as the IRS may direct:

Internal Revenue Service Center
Ogden, UT 84201

Section 4.7. Successor Rebate Analyst. If the firm acting as the Rebate Analyst resigns or becomes incapable of acting for any reason, or if the City or the Board desires that a different firm act as the Rebate Analyst, then the City by an instrument or concurrent instruments in writing delivered to the firm then serving as the Rebate Analyst and any other party to this Tax Certificate, will engage a successor Rebate Analyst. In each case the successor Rebate Analyst must be a firm of nationally recognized bond counsel or a firm of independent certified public accountants and such firm must expressly agree to undertake the responsibilities assigned to the Rebate Analyst hereunder. In the event the firm acting as the Rebate Analyst resigns or becomes incapable of acting for any reason and the City fails to appoint a qualified successor Rebate Analyst within thirty (30) days following notice of such resignation then the Trustee will appoint a firm to act as the successor Rebate Analyst.

Section 4.8. Rebate Report Records. The Trustee and the City will retain copies of each arbitrage rebate report and opinion until three years after the final Computation Date.

Section 4.9. Filing Requirements. The Trustee, the Board and the City will file or cause to be filed with the Internal Revenue Service such reports or other documents as are required by the Code in accordance with an Opinion of Bond Counsel.

Section 4.10. Survival after Defeasance. Notwithstanding anything in the Indenture to the contrary, the obligation to pay arbitrage rebate to the United States will survive the payment or defeasance of the Bonds.

Section 4.11. Tax Audits. The Board and the City acknowledge that the IRS has a routine tax audit program in place and that the cost of professional representation and compliance with requests for records and other information that are a part of such an audit can be substantial, even if no violation of tax laws are found. The Board and the City also recognize that under current administrative procedures the IRS must direct audit inquiries to the Board, even though the City has the primary responsibility for maintaining the exclusion of interest on the Bonds from gross income for federal income tax purposes. Upon receipt of notice of the commencement of any audit of the Bonds, the Board or the City will notify the other promptly. Throughout the term of the audit and any subsequent proceedings, the Board and the City will provide copies to one another of any correspondence received from or transmitted to the IRS by the other. The Board may hire its own legal counsel to represent its interests in connection with the audit or in any further proceeding that results from the audit. At the request of the Board, the City will hire separate legal counsel to represent the City's interests in the audit. The City, upon written request of the Board, will assume responsibility for responding to information and document requests made by the auditor that are within the knowledge or possession of the City. Promptly on demand by the Board in writing, the City will pay costs incurred by the Board in connection with the audit or any legal or administrative proceeding resulting from the audit (including the Board's reasonable attorney's fees and expenses). So long as the City shall not be in default under the terms of the Financing Agreement, neither the Board nor the City shall have the right to represent or otherwise bind the other party in connection with any settlement related to the tax-exempt status of the Bonds. Nothing contained in this section is intended to limit the rights of the Board to recovery under the Financing Agreement or any other agreement or certificate executed in connection with the issuance of the Bonds.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1. Term of Tax Agreement. This Tax Agreement will be effective concurrently with the issuance and delivery of the Bonds and will continue in force and effect until the principal of,

redemption premium, if any, and interest on all Bonds have been fully paid and all such Bonds are cancelled; provided that, the provisions of **Article IV** of this Tax Agreement regarding payment of arbitrage rebate and all related penalties and interest will remain in effect until all such amounts are paid to the United States.

Section 5.2. Amendments. This Tax Agreement may be amended from time to time by the parties to this Tax Agreement without notice to or the consent of any of the Bondowners, but only if such amendment is in writing and is accompanied by an Opinion of Bond Counsel to the effect that, under then existing law, assuming compliance with this Tax Agreement as so amended such amendment will not cause interest on any Bond to be included in gross income for federal income tax purposes. No such amendment will become effective until the Board and the Trustee receive this Opinion of Bond Counsel.

Section 5.3. Opinion of Bond Counsel. The Board, the City and the Trustee may deviate from the provisions of this Tax Agreement if furnished with an Opinion of Bond Counsel addressed to each of them to the effect that the proposed deviation will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes. The Board, the City and the Trustee will comply with any further or different instructions provided in an Opinion of Bond Counsel to the effect that the further or different instructions need to be complied with in order to maintain the validity of the Bonds or the exclusion from gross income of interest on the Bonds.

Section 5.4. Reliance. In delivering this Tax Agreement, the Board, the City and the Trustee are making only those certifications, representations and agreements as are specifically attributed to them in this Tax Agreement. None of the Board, the City or the Trustee is aware of any facts or circumstances which would cause it to question the accuracy of the facts, circumstances, estimates or expectations of any other party providing certifications as part of this Tax Agreement and, to the best of their knowledge, those facts, circumstances, estimates and expectations are reasonable. The parties to this Tax Agreement understand that its certifications will be relied upon by the law firm of Gilmore & Bell, P.C., in rendering its opinion as to the validity of the Bonds and the exclusion from federal gross income of the interest on the Bonds.

Section 5.5. Severability. If any provision in this Tax Agreement or in the Bonds is determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected or impaired.

Section 5.6. Benefit of Agreement. This Tax Agreement is binding upon the Board, the City and the Trustee and their respective successors and assigns, and inures to the benefit of the parties to this Tax Agreement and the owners of the Bonds. Nothing in this Tax Agreement or in the Indenture, the Financing Agreement or the Bonds, express or implied, gives to any person, other than the parties to this Tax Agreement and their successors and assigns, and the owners of the Bonds, any benefit or any legal or equitable right, remedy or claim under this Tax Agreement. The certifications and representations made in this Tax Agreement and the expectations presented in this Tax Agreement are intended, and may be relied upon, as a certification of an officer of the Board given in good faith described in Regulations § 1.148-2(b)(2). The City understands that its certifications in this Tax Agreement and in its Closing Certificate will be relied upon by the Board in the issuance of the Bonds and execution of this Tax Agreement. The Board and the City understand that such certifications will be relied upon by the law firm of Gilmore & Bell, P.C., in rendering its opinion as to the validity of the Bonds and the exclusion from federal gross income of the interest on the Bonds.

Section 5.7. Default; Breach and Enforcement. Any misrepresentation of a party contained herein or any breach of a covenant or agreement contained in this Tax Agreement may be pursued by the Bondowners or the other party or parties to this Tax Agreement pursuant to the terms of the Indenture or

any other document which references this Tax Agreement and gives remedies for a misrepresentation or breach thereof.

Section 5.8. Execution in Counterparts. This Tax Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute the same instrument.

Section 5.9. Governing Law. This Tax Agreement will be governed by and construed in accordance with the laws of the State of Missouri.

Section 5.10. Electronic Transactions. The parties agree that the transaction described in this Tax Agreement may be conducted, and related documents may be stored, by electronic means.

[Remainder of Page Intentionally Blank.]

The parties to this Tax Agreement have caused this Tax Compliance Agreement to be duly executed by their duly authorized officers as of the Issue Date of the Bonds.

MISSOURI DEVELOPMENT FINANCE BOARD

By: _____
Acting Executive Director

CITY OF INDEPENDENCE, MISSOURI

By: _____
City Manager

UMB BANK, N.A., as Trustee

By: _____

Name:

Title:

EXHIBIT A

DEBT SERVICE SCHEDULE AND PROOF OF BOND YIELD

EXHIBIT B

IRS FORM 8038-G

ATTACHMENT TO IRS FORM 8038-G:

**[\$[Principal Amount]
Missouri Development Finance Board
Infrastructure Facilities Refunding Revenue Bonds
(City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds)
Series 2021**

PART II: Type of Issue

Line 11-18 Users of Bond Proceeds:

Form 8038-G Line Number	User Name	Employer Identification Number	Governmental or Nongovernmental Entity	Summary of Use
15	City of Independence, Missouri	44-6000190	Governmental	Sewerage System

EXHIBIT C

DESCRIPTION OF PROPERTY COMPRISING THE FINANCED FACILITY

EXHIBIT D

**SAMPLE
ANNUAL COMPLIANCE CHECKLIST**

Name of tax-exempt bonds (“Bonds”) financing Financed Asset:	[\$(Principal Amount) Missouri Development Finance Board Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds) Series 2021A
Issue Date of Bonds:	October __, 2021
Placed in service date of Project Facility:	_____
Name of Bond Compliance Officer:	_____
Period covered by request (“Annual Period”):	_____

Item	Question	Response
1 Ownership	Was the entire Project Facility owned by the City during the entire Annual Period?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was “No,” was an Opinion of Bond Counsel obtained prior to the transfer?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, include a copy of the Opinion in the Tax-Exempt Bond File. If No, contact Bond Counsel and include description of resolution in the Tax-Exempt Bond File.	

2 Leases & Other Rights to Possession	During the Annual Period, was any part of the Project Facility leased at any time pursuant to a lease or similar agreement for more than 50 days?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was “Yes,” was an Opinion of Bond Counsel obtained prior to entering into the lease or other arrangement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, include a copy of the Opinion in the Tax-Exempt Bond File. If No, contact Bond Counsel and include description of resolution in the Tax-Exempt Bond File.	

Item	Question	Response
3 Management or Service Agreements	During the Annual Period, has the management of all or any part of the operations of the Financed Asset (e.g., cafeteria, gift shop, etc.) been assumed by or transferred to another entity?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was "Yes," was an Opinion of Bond Counsel obtained prior to entering into the management agreement? If Yes, include a copy of the Opinion in the Tax-Exempt Bond File. If No, contact Bond Counsel and include description of resolution in the Tax-Exempt Bond File.	<input type="checkbox"/> Yes <input type="checkbox"/> No
4 Output Contracts	During the Annual Period, has the City entered into any Non-Qualified Output Agreements (<i>i.e.</i> any agreement having a term that is greater than 3 years for the sale of output of the facility, any agreement for the sale of a significant amount of the output of the facility, or "spot" sales having a term greater than 30 days)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes: Attach a copy of the agreement(s) and Opinion of Counsel.	
5 Other Use	Was any other agreement entered into with an individual or entity that grants special legal rights to the Financed Asset?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was "Yes," was an Opinion of Bond Counsel obtained prior to entering into the agreement? If Yes, include a copy of the Opinion in the Tax-Exempt Bond File. If No, contact Bond Counsel and include description of resolution in the Tax-Exempt Bond File.	<input type="checkbox"/> Yes <input type="checkbox"/> No
6 Arbitrage & Rebate	Have all rebate and yield reduction calculations mandated in the Tax Compliance Agreement been prepared for the current year?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If No, contact Rebate Analyst and incorporate report or include description of resolution in the Tax-Exempt Bond File.	

Bond Compliance Officer: _____

Date Completed: _____

CONTINUING DISCLOSURE UNDERTAKING

This **CONTINUING DISCLOSURE UNDERTAKING** (the “Disclosure Undertaking”) dated as of October 1, 2021, is executed and delivered by the City of Independence, Missouri (the “City”), in connection with the issuance of Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri - Annual Appropriation Sewer System Revenue Bonds), Series 2021A issued by the Missouri Development Finance Board (the “Board”) on behalf of the City in the aggregate principal amount of \$ _____ (the “Series 2021A Bonds”) and Taxable Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri - Annual Appropriation Sewer System Revenue Bonds), Series 2021B issued by the Board on behalf of the City in the aggregate principal amount of \$ _____ (the “Series 2021B Bonds” and together with the Series 2021A Bonds, the “Bonds”). The Bonds are issued pursuant to a Bond Trust Indenture dated as of October 1, 2021 (the “Indenture”) between the Board of UMB Bank, N.A., as trustee.

In order to permit the Underwriter (defined below) to comply with the provisions of Rule 15c2-12 of the Securities and Exchange Commission, as amended, in connection with the public offering of the Bonds, the City, in consideration of the mutual covenants herein contained and other good and lawful consideration, hereby agrees, for the sole and exclusive benefit of holders and Beneficial Owners (as hereinafter defined) of the Bonds, as follows:

Section 1. Definitions. Capitalized terms used but not defined herein as follows shall have the meaning ascribed to them in the Indenture.

“Annual Financial Information” shall mean the information specified in Section 3 hereof.

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

“Bonds” shall mean the bonds described above.

“City” shall mean the City of Independence, Missouri, a municipality of the State of Missouri constituting a political subdivision, and any successor thereto.

“EMMA” means the Electronic Municipal Market Access system for municipal securities disclosures.

“Fiscal Year” means the 12-month period beginning on July 1 and ending on June 30 or any other 12-month period selected by the City as the Fiscal Year of the City for financial reporting purposes.

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of (a) or (b) in this definition; provided however, the term Financial Obligation shall not include “municipal securities” (as such term is defined in the Securities Exchange Act of 1934, as

amended) as to which a “final official statement” (as such term is defined in Rule 15c2-12) has been provided to the MSRB consistent with Rule 15c2-12.

“Financing Agreement” means the Financing Agreement dated as of October 1, 2021, between the City and the Board with respect to the Bonds.

“GAAP” shall mean accounting principles generally accepted in the United States of America as prescribed from time to time for governmental units by the Governmental Accounting Standards Board.

“GAAS” shall mean generally accepted auditing standards as in effect from time to time in the United States.

“MSRB” shall mean the Municipal Securities Rulemaking Board.

“Obligated Person” shall mean the person (including an issuer of separate securities) that is committed by contract or other arrangements structured to support payment of all or part of the obligations under the municipal securities.

“Official Statement” shall mean the Official Statement related to the Bonds dated _____, 2021.

“Rule 15c2-12” shall mean Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended from time to time.

“Underwriter” shall mean Morgan Stanley & Co. LLC.

Section 2. Obligations to Provide Continuing Disclosure.

(a) Obligations of the City.

(i) The City hereby undertakes, for the benefit of the holders and Beneficial Owners of the Bonds, to provide, no later than January 2 of each year commencing January 2, 2022 (or, if the City’s Fiscal Year shall no longer end on June 30, 180 days after the end of each of its Fiscal Years) to the MSRB via EMMA, the City’s Comprehensive Annual Financial Report (the “Annual Report”), which includes (A) the audited financial statements of the City for the prior fiscal year, and (B) updates to the information in Appendix A to the Official Statement in the tables labeled **"Historical Customers, Usage and Revenues," "Large Volume Customers" and "Historical Operation and Maintenance Expense."** If the City’s Comprehensive Annual Report is not then available, unaudited financial statements in a format similar to the financial statements contained in the final Official Statement relating to the Bonds and the operating information described in (B) above shall be provided no later than January 2 of each year commencing January 2, 2022 (or, if the City’s Fiscal Year shall no longer end on June 30, 180 days after the end of each of its Fiscal Years) and the Comprehensive Annual Report shall be promptly delivered to the MSRB if and when it becomes available. The Annual Report shall be provided to the MSRB in such manner and format as prescribed by the MSRB.

(ii) The Trustee, based upon information that has been provided to and actually received by it in its capacity as Trustee, if other than an officer of the City, shall notify the City of

the occurrence of any of the events with respect to the Bonds listed in Section 2(a)(iii) hereof promptly upon becoming aware of the occurrence of any such event.

(iii) The City hereby undertakes, for the benefit of the holders and Beneficial Owners of the Bonds, to provide to the MSRB via EMMA and the Trustee, not later than 10 Business Days from the occurrence thereof, notice of any of the following events with respect to the Bonds:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions; the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Series 2021A Bonds, or other material events affecting the tax status of the Series 2021A Bonds;
- (7) modifications to rights of bondholders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution or sale of property securing repayment of the Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the City;
- (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) appointment of a successor or additional trustee or the change of name of the trustee, if material;
- (15) incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
- (16) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

(iv) The City shall also provide to the MSRB in a timely manner notice of any failure of the City to provide the MSRB the Annual Report or financial statements required by paragraph (i) of this Section 2(a) on or before the date specified.

(v) Notwithstanding the foregoing, notice of listed events described in (iii)(8) above need not be given any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds pursuant to the Indenture.

(b) Termination or Modification of Disclosure Obligation. The City's obligations herein shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If the

City's obligations hereunder are assumed in full by some other entity, such person shall be responsible for compliance with this Disclosure Undertaking in the same manner as if it were the City, and the City shall have no further responsibility hereunder. If such termination or substitution occurs prior to the final maturity of the Bonds the City shall give notice of such termination or substitution in the same manner as for a Material Event under **Section 2(a)(iii)**.

(c) Other Information. Nothing herein shall be deemed to prevent the City from disseminating any other information in addition to that required hereby in the manner set forth herein or in any other manner. If the City should disseminate any such additional information, the City shall have no obligation hereunder to update such information or include it in any future materials disseminated hereunder.

Section 3. Annual Financial Information.

(a) Specified Information. The Annual Financial Information of the City shall consist of the Annual Report as described in Section 2(a)(i).

(b) Incorporation by Reference. Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues with respect to which the City is an "obligated person" (as defined by Rule 15c2-12), which have been provided to the MSRB and is available through EMMA or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the MSRB via EMMA. The City shall clearly identify each such other document so included by reference.

(c) Informational Categories. The requirements contained in this Disclosure Undertaking are intended to set forth a general description of the type of financial information and operating data to be provided by the City, such descriptions are not intended to state more than general categories of financial information and operating data; and where the provisions of this Disclosure Undertaking call for information that no longer can be generated or is no longer relevant because the operations to which it related have been materially changed or discontinued, a statement to that effect shall be provided.

Section 4. Financial Statements.

The annual financial statements of the City for each fiscal year shall be prepared in accordance with GAAP (unless applicable accounting principles are otherwise disclosed) and audited by an independent accounting firm in accordance with GAAS. The annual financial statements may be provided by specific incorporation by reference to any other documents which have been filed with the MSRB and the Securities and Exchange Commission.

Section 5. Remedies.

If the City should fail to comply with any provision of this Disclosure Undertaking, then any holder or Beneficial Owner of Bonds may enforce, for the equal benefit and protection of all the holders or Beneficial Owners of the Bonds similarly situated, by mandamus or other suit or proceeding at law or in equity, against such party and any of its officers, agents and employees, and may compel such party or any such officers, agents or employees to perform and carry out their duties under this Disclosure Undertaking; provided that the sole and exclusive remedy for breach of this Disclosure Undertaking shall be an action to compel specific performance of the obligations of such party hereunder, and no person or entity shall be entitled to recover monetary damages hereunder under any circumstances; and provided, further, that the rights of any holder or Beneficial Owner to challenge the adequacy of the information provided in accordance with Sections 2 and 3 hereunder are conditioned upon the provisions of the

Indenture with respect to the enforcement of remedies of holders upon the occurrence of an Event of Default as though such provisions applied hereunder. Failure of any party to perform its obligations hereunder shall not constitute an Event of Default under any agreement executed and delivered in connection with the issuance of the Bonds.

Section 6. Parties in Interest.

The provisions of this Disclosure Undertaking shall inure solely to the benefit of holders and Beneficial Owners from time to time of the Bonds, the Underwriter, the City and the Trustee, and shall create no rights in any other person or entity.

Section 7. Amendments.

(a) Without the consent of any of the holders or Beneficial Owners of the Bonds, the City, at any time and from time to time, may amend or make changes this Disclosure Undertaking for any purpose, if:

(i) the amendment is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the City or any type of business or affairs it conducts;

(ii) the undertakings set forth herein, as amended, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of Rule 15c2-12 on the date hereof, after taking into account any amendments to, or interpretation by the staff of the Securities and Exchange Commission of, Rule 15c2-12, as well as any change in circumstances; and

(iii) the amendment, in the opinion of nationally recognized bond counsel, does not materially impair the interests of the holders or Beneficial Owners of the Bonds.

(b) Annual Financial Information for any fiscal year containing any amended operating data or financial information for such fiscal year shall explain, in narrative form, the reasons for such amendment and the impact of the change in the type of operating data or financial information in the Annual Financial Information being provided for such fiscal year. If a change in accounting principles is included in any such amendment, such Annual Financial Information shall present a comparison between the financial statements or information prepared on the basis of the amended accounting principles and those prepared on the basis of the former accounting principles. Such comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information. To the extent reasonably feasible such comparison shall also be quantitative. A notice of any such change in accounting principles shall be sent in a timely manner by the City to the MSRB.

Section 8. Termination.

This Disclosure Undertaking shall remain in full force and effect until such time as all principal, redemption premiums, if any, and interest on the Bonds shall have been paid in full or the Bonds shall have otherwise been paid or legally defeased pursuant to the Indenture; provided, however, that if Rule 15c2-12 (or successor provision) shall be amended, modified or changed so that all or any part of the information currently required to be provided thereunder shall no longer be required to be provided thereunder, then such information shall no longer be required to be provided hereunder; and provided, further, that if and to the extent Rule 15c2-12 (or successor provision), or any provision thereof, shall be

declared by a court of competent and final jurisdiction to be, in whole or in part, invalid, unconstitutional, null and void, or otherwise inapplicable to the Bonds, then the information required to be provided hereunder, insofar as it was required to be provided by a provision of Rule 15c2-12 so declared, shall no longer be required to be provided hereunder. Upon any legal defeasance of the Bonds, the City shall provide notice of such defeasance to the MSRB and such notice shall state whether the Bonds have been defeased to maturity or to redemption and the timing of such maturity or redemption.

Section 9. Notices.

Any notices or communications to the City may be given as follows:

City of Independence, Missouri
111 East Maple
City of Independence, Missouri 64050
Attention: Director of Finance
Telephone: (816) 325-7078
Fax: (816) 325-7075

The City may, by written notice to the Trustee, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

Section 10. Designated Agents.

The City may, from time to time, appoint or designate one or more agents (each, a “designated agent”) to submit Annual Financial Information, Material Event notices, and other notices or reports with the MSRB via EMMA. The City hereby appoints the Trustee and Gilmore & Bell, P.C. as designated agents of the City solely for the purpose of submitting City-approved Annual Financial Information, event notices, and other notices or reports to the MSRB via EMMA as requested by the City. The City may revoke this designation at any time upon written notice to the designated agent, and may designate one or more additional designated agents for purposes of this **Section 10** from time to time by written designation to the newly appointed designated agent.

Section 11. Electronic Transactions.

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

Section 12. Governing Law.

This Disclosure Undertaking shall be governed by and construed in accordance with the laws of the State of Missouri.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the undersigned has duly authorized, executed and delivered this Disclosure Undertaking as of the date first above written.

CITY OF INDEPENDENCE, MISSOURI,
as Obligated Person

By: _____

Name: Zachary Walker

Title: City Manager

BOND PURCHASE AGREEMENT

relating to

\$ _____
**Missouri Development Finance Board
Infrastructure Facilities
Refunding Revenue Bonds
(City of Independence, Missouri –
Annual Appropriation
Sewer System Revenue Bonds)
Series 2021A**

\$ _____
**Missouri Development Finance Board
Taxable Infrastructure Facilities
Refunding Revenue Bonds
(City of Independence, Missouri –
Annual Appropriation
Sewer System Revenue Bonds)
Series 2021B**

September [30], 2021

Missouri Development Finance Board
200 Madison Street, Suite 1000
Jefferson City, Missouri 65101
Attention: Acting Executive Director

City of Independence, Missouri
City Hall
111 East Maple Avenue
Independence, Missouri 64050
Attention: City Manager

Ladies and Gentlemen:

The undersigned, Morgan Stanley & Co. LLC (the “**Underwriter**”), offers to enter into the following agreement (this “**Agreement**”) with Missouri Development Finance Board (the “**Issuer**”) and the City of Independence, Missouri (the “**City**”) which, upon acceptance of this offer by the Issuer and the City, will be binding upon the Issuer, the City and the Underwriter. This offer is made subject to the written acceptance of this Agreement by the Issuer and the City on or before 5:00 p.m. (central time), on the date indicated above (or such later time as we may mutually agree upon) and, if not so accepted, may be withdrawn by the Underwriter upon written notice to the Issuer and the City by the Underwriter at any time before its acceptance hereof.

Terms not otherwise defined herein shall have the same meanings as set forth in the Indenture (as defined in **Section 1** of this Agreement).

Section 1. Purchase and Sale of the Bonds.

(a) Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, the Underwriter hereby agrees to purchase from the Issuer for offering to the public, and the Issuer hereby agrees to sell and deliver to the Underwriter for such purpose, all, but not less than all, of (i) the Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds) Series 2021A (the “**Series 2021A Bonds**”) and (ii) the Taxable Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds) Series 2021B (the “**Series 2021B Bonds**,” together with the Series 2021A Bonds, the “**Bonds**”). The purchase price for the Series 2021A Bonds shall be \$ _____

(reflecting [net] original issue premium of \$_____ and an underwriting discount of \$_____). The purchase price for the Series 2021B Bonds shall be \$_____ (reflecting an underwriting discount of \$_____). The payment for and delivery of the Bonds pursuant to **Section 7** is called the “**Closing**.”

(b) The Bonds are being issued by the Issuer pursuant to the terms of the Bond Trust Indenture, dated as of October 1, 2021 (the “**Indenture**”), by and between the Issuer and UMB Bank, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the “**Trustee**”). The Bonds shall mature on the dates, in the years and in the amounts, shall bear interest at fixed interest rates and shall be offered at the initial public offering prices as described on **Schedule I** attached hereto and made a part hereof.

(c) Proceeds of the Series 2021A Bonds will be used to (i) refund, on a current basis, the Issuer’s outstanding Infrastructure Facilities Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2012B (the “**Series 2012B Refunded Bonds**”), (ii) fund a debt service reserve fund for the Series 2021A Bonds, and (iii) pay the costs of issuance of the Series 2021A Bonds and the incidental costs of refunding the Series 2012B Refunded Bonds. Proceeds of the Series 2021B Bonds will be used to (i) advance refund the Issuer’s outstanding Infrastructure Facilities Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2013C (the “**Series 2013C Refunded Bonds**,” together with the Series 2012B Refunded Bonds, the “**Refunded Bonds**”), (ii) fund a debt service reserve fund for the Series 2021B Bonds, and (iii) pay the costs of issuance of the Series 2021B Bonds and the incidental costs of refunding the Series 2013C Refunded Bonds.

Section 2. Public Offering.

(a) The Underwriter intends to make an initial bona fide public offering of the Bonds at prices not in excess of the initial public offering price or prices (or with yield or yields not lower than the yield or yields) set forth in **Schedule I** hereto, plus accrued interest thereon (if any), but may subsequently change such initial offering prices or yields at any time without notice in connection with the marketing of the Bonds. The foregoing notwithstanding, the Underwriter may offer and sell the Bonds to certain dealers (including dealers depositing Bonds into unit investment trusts or mutual funds) at a price or prices lower (or yield or yields higher) than the public offering prices or yields set forth in **Schedule I** hereto.

(b) The Issuer and the City acknowledge and agree that (i) the purchase and sale of the Bonds pursuant to this Agreement is an arm’s-length commercial transaction between the Issuer, the City and the Underwriter, (ii) with respect to the engagement of the Underwriter by the Issuer and the City, including in connection with the purchase, sale and offering of the Bonds, and discussions, conferences, negotiations and undertakings in connection therewith, the Underwriter is and has been acting solely as a principal and not as an advisor (including, without limitation, a Municipal Advisor (as such term is defined in Section 975(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act)), agent or a fiduciary of the Issuer or the City, (iii) the Underwriter has not assumed (individually or collectively) a fiduciary responsibility in favor of the Issuer or the City with respect to the offering of the Bonds or the process leading thereto (whether or not the Underwriter, or any affiliate of the Underwriter, has advised or is currently advising the Issuer or the City on other matters) or any other obligation to the Issuer or the City except the obligations expressly set forth in this Agreement; (iv) each of the Issuer and the City has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Bonds and (v) this Agreement expresses the entire relationship between the parties hereto.

Section 3. Official Statement.

(a) The City will deliver to the Underwriter within seven business days after the date hereof, or within sufficient time to accompany any confirmation that requests payment from any customer of the Underwriter, whichever comes first, the final Official Statement, dated as of the date hereof, relating to the

Bonds (which, together with the cover page, and all exhibits, appendices, maps, pictures, diagrams, reports and statements included therein or attached thereto and any amendments and supplements that may be authorized for use with respect to the Bonds are herein called the “**Official Statement**”) executed on behalf of the City by a duly authorized representative thereof in such quantity that the Underwriter may reasonably request to enable the Underwriter to provide the Official Statement to potential customers and to comply with any rules of the Municipal Securities Rulemaking Board (the “**MSRB**”) and the Securities and Exchange Commission (the “**SEC**”).

The Issuer and the City consent to the use by the Underwriter prior to the date upon which the Official Statement is executed and available for distribution, of the Preliminary Official Statement dated September [22], 2021 (the “**Preliminary Official Statement**”). The Preliminary Official Statement has been prepared by the City for use by the Underwriter in connection with the public offering, sale and distribution of the Bonds. The Underwriter confirms that it has reviewed the Preliminary Official Statement in accordance with the requirements of the Rule.

(b) For purposes of Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12 (as in effect and interpreted from time to time, the “**Rule**”), the Issuer and the City have deemed the Preliminary Official Statement, as of its date, the final official statement, with certain omissions therein as permitted by the Rule to be completed in connection with the pricing of the Bonds. The Issuer and the City approve the Official Statement. Notwithstanding the foregoing, (i) the Issuer’s representations hereunder are limited to those portions of the Preliminary Official Statement under the captions, “INTRODUCTION – The Board,” “THE BOARD” and “LITIGATION – The Board” and (ii) the City’s representations hereunder do not include those portions of the Preliminary Official Statement under the captions, “INTRODUCTION – The Board,” “THE BOARD” and “LITIGATION – The Board.”

The Issuer and the City agree to provide to the Underwriter all information concerning the Issuer and the City, respectively, necessary to comply with the requirements of the Rule.

The City has provided to the Underwriter prior to the date hereof the approval in writing of Rubin Brown LLP to use their report included in Appendix B of the Official Statement.

(c) The Issuer and the City represent that their respective governing bodies have authorized the Official Statement to be used by the Underwriter in connection with the public offering and the sale of the Bonds. Each of the Issuer and the City hereby confirms that it does not object to the distribution of the Official Statement in electronic form.

(d) If, after the date of this Agreement to and including the date the Underwriter is no longer required to provide an Official Statement to potential customers who request the same pursuant to the Rule (the earlier of (i) 90 days from the “end of the underwriting period” (as defined in the Rule) and (ii) the time when the Official Statement is available to any person from the MSRB, but in no case less than 25 days after the “end of the underwriting period” for the Bonds), the Issuer or the City becomes aware of any fact or event which might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or if it is necessary to amend or supplement the Official Statement to comply with law, the Issuer or the City, as applicable, will notify the Underwriter (and for the purposes of this clause provide the Underwriter with such information as it may from time to time request), and if, in the opinion of the Underwriter, such fact or event requires preparation and publication of a supplement or amendment to the Official Statement, the City will forthwith prepare and furnish, at the City’s own expense (in a form and manner approved by the Underwriter), a reasonable number of copies of either amendments or supplements to the Official Statement so that the statements in the Official Statement as so amended and supplemented will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or so that the Official Statement will comply with law. If such notification shall be subsequent to the Closing Date (as defined in **Section 7**), the City shall furnish

such legal opinions, certificates, instruments and other documents as the Underwriter may deem necessary to evidence the truth and accuracy of such supplement or amendment to the Official Statement. The obligations of the Issuer set forth in this paragraph shall not require the Issuer to monitor the business and affairs of the City. In connection with the foregoing, the Issuer will only be required to prepare and furnish amendments or supplements, at the expense of the City, relating to information under the captions “THE BOARD” and “LITIGATION – The Board” in the Official Statement.

(e) The Underwriter hereby agrees to file the Official Statement with the MSRB. Unless otherwise notified in writing by the Underwriter, the Issuer and the City can assume that the “end of the underwriting period” for purposes of the Rule is the Closing Date.

Section 4. Ongoing Disclosure. The City covenants and agrees to enter into a written agreement or contract, constituting an undertaking to provide ongoing disclosure about the City, for the benefit of the beneficial owners of the Bonds, as required by section (b)(5) of the Rule. The form and substance of such undertaking shall be set forth in the Undertaking (as defined below) delivered at Closing, which agreement shall be substantially as described in the Official Statement, with such changes as may be agreed upon in writing by the Underwriter. Such undertaking, as set forth in the Continuing Disclosure Undertaking, is hereinafter referred to collectively as the “**Undertaking**.”

Section 5. Representations, Warranties and Agreements of the Issuer. The Issuer represents and warrants to and covenants with the Underwriter that:

(a) The Issuer is a body corporate and politic duly created and existing under the laws of the State of Missouri (the “**State**”), including particularly the Missouri Development Finance Board Act, Sections 100.250 to 100.297, inclusive, of the Revised Statutes of Missouri, as amended (the “**Act**”), and has full legal right, power and authority, and at the Closing Date will have full legal right, power and authority (i) to adopt, and has duly adopted a resolution by the governing body of the Issuer on September [21], 2021 authorizing the issuance of the Bonds and the execution and delivery of the Issuer Agreements (as defined below) (the “**Bond Resolution**”), (ii) to issue and deliver the Bonds for the purposes for which they are to be issued as set forth in the Official Statement, (iii) to make the proceeds of the Bonds available to the City under the Financing Agreement, dated as of October 1, 2021 (the “**Financing Agreement**”), between the Issuer and the City, for the purposes set forth therein and as described in the Official Statement, (iv) to execute and deliver this Agreement, the Bond Resolution, the Indenture, the Financing Agreement, the Escrow Agreement and the Tax Compliance Agreement (collectively, the “**Issuer Agreements**”), (v) to pledge and assign to the Trustee the property constituting the Trust Estate (as defined in the Indenture) as security for the payment of the principal of, premium, if any, and interest on the Bonds, and (vi) to consummate the transactions contemplated by, and perform its obligations under, the Bonds and the Issuer Agreements.

(b) The Issuer has duly authorized and approved the execution and delivery of the Issuer Agreements. The Issuer has taken all necessary action required to make the Issuer Agreements and the Bonds the valid and binding obligations of the Issuer which they purport to be; and when executed and delivered by the parties thereto, the Issuer Agreements and the Bonds will constitute valid and binding agreements of the Issuer and will be enforceable against the Issuer in accordance with their respective terms subject to the qualification that the enforcement thereof may be limited by laws relating to bankruptcy, insolvency or other similar laws affecting creditors’ rights generally and by the availability of equitable remedies.

(c) To the best of its knowledge, the Issuer is not in any manner which would materially affect the authorization, issuance, tax-exempt status of the Bonds or sale of the Bonds, in breach of or in default under any existing law, court or administrative regulation, decree, order, agreement, indenture, financing agreement, bond, resolution, mortgage, lease, sublease or other instrument to which it is a party or by which it is bound, and no event has occurred or is continuing which, with the passage of time or the giving of notice, or both, would constitute a material default or event of default by the Issuer thereunder.

(d) To the best of its knowledge, the execution, delivery and due performance by the Issuer of the Issuer Agreements and the Bonds and any other documents contemplated herein or in the Official Statement will not conflict with or result in a violation or breach of, or constitute a default under any indenture, agreement, mortgage, lease, or instrument to which the Issuer is a party or by which it is bound, or any existing law, court or administrative regulation, order or decree to which the Issuer is subject, or result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Issuer other than as contemplated by the Financing Agreement and the Indenture. The Issuer has obtained all consents which its counsel and Gilmore & Bell, P.C. (“**Bond Counsel**”) have advised are necessary in connection with the issuance and sale of the Bonds and the Issuer’s obligations under the Issuer Agreements, including any governmental authority of the State or the United States of America, provided, however, that no representation is made concerning compliance with the registration requirements of the Federal securities laws or the securities or “blue sky” laws of the various states.

(e) There is no action, suit, proceeding or investigation at law or in equity or before or by any court, public board, governmental agency or body pending or, to the best knowledge of the Issuer, threatened against or affecting the Issuer, attempting to restrain or enjoin the issuance or delivery of the Bonds or questioning or affecting the validity of the Bonds or the proceedings or authority under which they are to be issued or questioning the right of the Issuer to enter into the Issuer Agreements to secure the Bonds in the manner provided in the Indenture or wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by the Issuer Agreements or the Official Statement, or which, in any way, would adversely affect the validity or enforceability of the Bonds or the Issuer Agreements or any agreement or instrument to which the Issuer is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby and by the Official Statement or the exclusion of interest on the Series 2021A Bonds from the gross income of the owners thereof for Federal income tax purposes referred to under the caption “TAX MATTERS” in the Official Statement.

(f) No event has occurred and is continuing which, with the lapse of time or the giving of notice, or both, would constitute an event of default under the Issuer Agreements.

(g) The information under the captions “INTRODUCTION – The Board,” “THE BOARD” and “LITIGATION – The Board” in the Official Statement has been supplied by the Issuer and as of its date did not, and such information in the Official Statement as of its date does not and on the Closing Date will not, contain any untrue or misleading statements of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(h) Neither the Issuer nor its revenues are subject to taxation under the Internal Revenue Code of 1986, as amended (the “**Code**”), or the laws of the State.

(i) The Issuer will cooperate with the Underwriter and its counsel in endeavoring to qualify the Bonds for offering and sale under the securities or “blue sky” laws of such jurisdictions of the United States as the Underwriter may request; provided, however, that the Issuer shall have no responsibility for payment of expenses in connection therewith and will not be requested to execute any special consent to service of process in connection with any such qualification in any jurisdiction. The City will pay the reasonable expenses of any action taken under this paragraph.

(j) The Issuer will apply the proceeds from the sale of the Bonds as specified in the Indenture and the Financing Agreement. So long as any of the Bonds remain outstanding and, except as may be authorized by the Indenture and the Financing Agreement, the Issuer will not issue or sell any bonds or obligations, other than the Bonds or any Additional Bonds authorized pursuant to the terms of the Indenture, the principal of or premium, if any, or interest on which will be payable from the Trust Estate.

(l) Neither the creation, organization or existence of the Issuer nor the right of the present directors of the Issuer to their offices nor the title of the officials of the Issuer to their respective offices are

being contested and no authority or proceeding for the issuance of the Bonds has been repealed, revoked or rescinded.

(m) The Issuer agrees to cooperate reasonably with the Underwriter to obtain CUSIP identification numbers to be printed on the Bonds as the Underwriter may request.

(n) Any certificate signed by an authorized officer of the Issuer and delivered to the Underwriter or Bond Counsel shall be deemed a representation and warranty by the Issuer to the Underwriter as to statements made therein.

(o) The Issuer covenants that between the date hereof and the Closing it will take no actions which will cause the representations and warranties made in this **Section 5** to be untrue as of the Closing.

Section 6. Representations, Warranties and Agreements of the City. The City represents, warrants and agrees as follows:

(a) The City, a constitutional charter city and political subdivision duly organized and existing under the laws of the State, and has full legal right, power and authority, and at the Closing Date will have full legal right, power and authority (i) to pass, and has duly passed an ordinance by the governing body of the City on September [20], 2021 authorizing the execution and delivery of the City Agreements (as defined below) and approving the form of the Indenture (the “**Authorizing Ordinance**”), (ii) to make use of the proceeds of the Bonds made available to the City under the Financing Agreement for the purposes set forth therein and as described in the Official Statement, (iii) to execute and deliver this Agreement, the Financing Agreement, the Undertaking, the Escrow Agreement, and the Tax Compliance Agreement (collectively, the “**City Agreements**”), and (vi) to consummate the transactions contemplated by, and perform its obligations under, the Bonds and the City Agreements.

(b) The information contained in the Official Statement is, and the information contained in the Official Statement, at all times during the period from its date to and including the date 25 days following the “end of the underwriting period” (as such term is described in the Rule), will be true and correct in all material respects and the Official Statement does not contain, and the Official Statement during such period will not contain, any untrue statement of a material fact and the Official Statement does not omit, and the Official Statement during such period will not omit, to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not be deemed to cover or apply to statements in or omissions from the Preliminary Official Statement or the Official Statement under the captions “INTRODUCTION – The Board,” “THE BOARD,” “LITIGATION – the Board,” or “UNDERWRITING” or any information regarding DTC.

(c) Except as described in the Official Statement, there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court, public board, or governmental agency or body pending or, to the best knowledge of the City, threatened against or affecting the City or the property of the City (and, to the knowledge of the City, there is no meritorious basis therefor), which involves the City (i) which might reasonably (x) adversely affect or question the payments required to be made under any of the City Agreements or (y) materially and adversely affect the financial condition of the City, and the operation or condition of the Sewer System or (ii) wherein an adverse decision, ruling or finding would (x) materially and adversely affect the transactions contemplated by the Official Statement and this Agreement or (y) materially and adversely affect the validity or enforceability of the Bonds, the Indenture, the City Agreements or any other documents, certificates or agreements executed or delivered by the City in connection with the transactions contemplated by the foregoing or the amounts to be received by the Issuer pursuant to the City Agreements or (z) materially and adversely affect the due organization, corporate existence or corporate powers of the City or the titles of its officers to their respective offices.

(d) This Agreement has been duly authorized, executed and delivered by the City and, assuming the due authorization execution and delivery by and the binding effect on the other parties thereto, this Agreement constitutes the legal, valid and binding obligation of the City enforceable in accordance with its terms, subject to the qualification that the enforcement thereof may be limited by laws relating to bankruptcy, insolvency or other similar laws affecting creditors' rights generally and by the availability of equitable remedies.

(e) Each of the City Agreements have been duly authorized by the City and, assuming the due authorization, execution and delivery by and the binding effect thereof on the other parties thereto, when executed by the City, each such instrument will constitute the legal, valid and binding obligation of the City enforceable in accordance with its terms, subject to the qualification that the enforcement thereof may be limited by laws relating to bankruptcy, insolvency or other similar laws affecting creditors' rights generally and by the availability of equitable remedies.

(f) The City will not take or omit to take any action which action or omission will in any way cause the proceeds of the sale of the Bonds to be applied in a manner contrary to that provided in the City Agreements or as described in the Official Statement (together with the City Agreements and the Indenture, collectively, the "**Bond Documents**") as in force from time to time.

(g) No default, event of default or event which, with notice or lapse of time or both, would constitute a default, or an event of default or a default under the Bond Documents, or under any agreement or instrument to which the City is a party or by which the City is bound or to which any of the property or assets of the City is subject has occurred and is continuing where the failure to cure the same might reasonably materially adversely affect the performance by the City of its obligations under the City Agreements or the consummation of the transactions contemplated by the Official Statement or this Agreement; neither the execution or delivery of the City Agreements, nor the consummation of any other of the transactions contemplated thereby or by this Agreement or the Official Statement nor the fulfillment of the terms hereof or thereof, will conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any corporate restriction or any indenture, agreement or instrument to which the City is bound, any order, rule or regulation applicable to the City of any court, Federal or state regulatory body, administrative agency or other governmental body having jurisdiction over the City or any of its properties or operations, or (except as contemplated thereby) will result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the City under the terms of any such restriction, agreement, instrument, order, rule or regulation, except for encumbrances permitted pursuant to the terms of the Bond Documents.

(h) The City has received, and they remain currently in full force and effect, or the City reasonably expects to receive all permits, licenses, approvals and certifications necessary in connection with the operation of the Sewer System.

(i) The City has received and there remain currently in full force and effect, or will receive prior to the Closing Date, all governmental consents and approvals that would constitute a condition precedent to, or the failure to obtain which would materially adversely affect, the performance by the City of its obligations under the City Agreements or the consummation of the transactions contemplated by the Official Statement or this Agreement.

(j) The audited financial statements of the City included as Appendix B to the Official Statement present fairly the financial position of the City as of the respective dates of such financial statements, and the results of operations and changes in net assets and in financial position of the City for the respective periods covered thereby, all in conformity with generally accepted accounting principles consistently applied throughout the periods involved, except as disclosed in the Official Statement.

(m) Subsequent to the respective dates as of which information is given in the Official Statement, and except as contemplated by the Official Statement, the City has not incurred any material liabilities or

obligations, direct or contingent, nor entered into any material transactions not in the ordinary course of business and there has not been any material adverse change in the City's condition (financial or otherwise), revenues, business, properties or prospects whether or not arising in the ordinary course of business nor any material change in its short term debt or long term debt.

(n) Except as described in the Preliminary Official Statement and to be described in the Official Statement relating to the Bonds, during the past five years, the City has not failed in any material way to comply with any prior continuing disclosure undertakings pursuant to the Rule.

(o) On or before the Closing Date, the City shall execute the Bond Documents to which it is a party.

(p) Any certificate signed by an authorized officer of the City delivered to the Issuer, to Bond Counsel or to the Underwriter shall be deemed a representation and warranty by the City to the Issuer and the Underwriter as to the statements made therein.

(q) The City will cooperate with the Underwriter and its counsel in endeavoring to qualify the Bonds for offering and sale under the securities or "blue sky" laws of such jurisdictions of the United States as the Underwriter may request; provided, however, that the City shall have no responsibility for payment of expenses in connection therewith and will not be requested to execute any special consent to service of process in connection with any such qualification in any jurisdiction. The City will pay the reasonable expenses of any action taken under this paragraph.

(r) The City covenants that between the date hereof and the Closing it will take no actions which will cause the representations and warranties made in this **Section 6** to be untrue as of the Closing.

Section 7. Closing.

(a) At 10:00 a.m. (central time) on October [13], 2021 (the "**Closing Date**"), or at such other time or such other date as shall have been mutually agreed upon by the Issuer, the City and the Underwriter (the "**Closing Time**"), the Issuer will deliver, or cause to be delivered, to the Underwriter, the Bonds, in definitive form duly executed and authenticated by the Trustee together with the other documents hereinafter mentioned; and the Underwriter will accept such delivery and pay the purchase price of the Bonds by delivering to the Issuer immediately available funds payable to the order of the Issuer in an amount equal to the purchase price set forth in **Section 1** hereof.

(b) Payment for the Bonds shall be made to the Issuer in immediately available funds or such other arrangement as shall be mutually agreeable on or before the Closing Time. The Bonds will be registered in the name of Cede and Co., as nominee for DTC. Delivery of the Bonds shall be made to the Paying Agent in its capacity as FAST Agent for DTC, in definitive form, as fully registered bonds duly executed and authenticated and bearing CUSIP numbers (provided neither the printing of a wrong number on any Bond nor the failure to print a number thereon shall constitute cause to refuse delivery of any Bond); provided, however, that the Bonds may be delivered in temporary form.

(c) The Underwriter shall have the right to delay the Closing and reschedule the Closing Date, if, subsequent to the date hereof, and at any time prior to the Closing, a material disruption in securities settlement, payment or clearance services affecting the Bonds shall have occurred. The Closing Date shall be rescheduled to a date mutually agreed upon by the Issuer and the Underwriter once the material disruption has been alleviated.

Section 8. Closing Conditions. The Underwriter has entered into this Agreement in reliance upon the representations, warranties and agreements of the Issuer and the City contained herein, and in reliance upon the representations, warranties and agreements to be contained in the documents and instruments to be

delivered at the Closing and upon the performance by the Issuer and the City of their obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Underwriter's obligations under this Agreement to purchase, to accept delivery of and to pay for the Bonds shall be conditioned upon the performance by the Issuer and the City of their obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following additional conditions, including the delivery by the Issuer and the City of such documents as are enumerated herein, in form and substance reasonably satisfactory to the Underwriter:

(a) The representations and warranties of the Issuer and the City contained herein shall be true, complete and correct on the date hereof and on and as of the Closing Date, as if made on the Closing Date.

(b) The Issuer and the City shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Time.

(c) At the Closing Time, each of the Bond Documents shall have been duly authorized, executed and delivered, and each of the foregoing shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to by the Underwriter; and the Official Statement and any amendments or supplements thereto shall have been duly authorized and executed. The net proceeds of the sale of the Bonds and any funds to be provided by the City shall be deposited and applied as described in the Official Statement and the Indenture and the Issuer and the City shall have duly adopted and there shall be in full force and effect such ordinances and/or resolutions as shall be required in order for parties to deliver each the opinions referred to hereafter.

(d) By the Closing Time, the Underwriter must receive electronic copies of the following documents, each satisfactory in form and substance to the Underwriter:

(i) Executed counterparts of the Bond Documents.

(ii) The Bond Resolution.

(iii) The executed Authorizing Ordinance.

(iv) A certificate, dated the Closing Date, signed by an authorized official of the Issuer, to the effect that (A) the representations and warranties of the Issuer contained in **Section 5** hereof are true and correct on and as of the Closing Date as if such representations and warranties had been made on and as of the Closing Date, (B) no litigation or proceeding against it is pending or, to its knowledge, threatened in any court or administrative body nor is there any basis for litigation which would (1) contest the right of the members or officials of the Issuer to hold and exercise their respective positions, (2) contest the due organization and valid existence of the Issuer, (3) contest the validity, due authorization and execution of the Bonds and the Issuer Agreements or (4) attempt to limit, enjoin or otherwise restrict or prevent the Issuer from functioning and collecting revenues pursuant to the Issuer Agreements; (C) the Bond Resolution authorizing the execution, delivery and/or performance of the Issuer Agreements and the Bonds has been duly adopted by the Issuer, is in full force and effect and has not been modified, amended or repealed; and (D) no event affecting the Issuer has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which is necessary to disclose therein in order to make the statements and information contained therein under the captions "INTRODUCTION – The Board," "THE BOARD" and "LITIGATION – The Board" not misleading in any material respect as of the Closing Time, and the information under the captions "INTRODUCTION – The Board," "THE BOARD" and "LITIGATION – The

Board” contained in the Official Statement is correct in all material respects and, as of the date of the Official Statement did not, and as of the Closing Date does not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(v) A certificate, dated the Closing Date, signed by an authorized official of the City, to the effect that (A) the representations and warranties of the City contained in **Section 6** hereof are true and correct on and as of the Closing Date as if such representations and warranties had been made on and as of the Closing Date, (B) no litigation or proceeding against it is pending or, to its knowledge, threatened in any court or administrative body nor is there any basis for litigation which would (1) contest the right of the members or officials of the City to hold and exercise their respective positions, (2) contest the due organization and valid existence of the City, (3) contest the validity, due authorization and execution of the City Agreements or (4) attempt to limit, enjoin or otherwise restrict or prevent the City from functioning and collecting revenues pursuant to the City Agreements; (C) the Authorizing Ordinance authorizing the execution, delivery and/or performance of the City Agreements has been duly authorized and delivered by the City, is in full force and effect and has not been modified, amended or repealed; and (D) no event affecting the City has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which is necessary to disclose therein in order to make the statements and information contained therein not misleading in any material respect as of the Closing Time, and the information contained in the Official Statement is correct in all material respects and, as of the date of the Official Statement did not, and as of the Closing Date does not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading, with the exception of information under the captions “INTRODUCTION – The Board,” “THE BOARD,” and “LITIGATION – the Board.” or “UNDERWRITING” or any information regarding DTC., as to which no representation is made.

(vi) A certificate of one or more authorized officers of the Trustee, dated the Closing Date, as to the due execution and delivery of the Indenture by the Trustee and the due authentication and delivery of the Bonds by the Trustee.

(vii) The unqualified approving opinion of Bond Counsel, dated the Closing Date, addressed to the Underwriter, in substantially the form attached as Appendix D to the Preliminary Official Statement.

(viii) The opinion of the counsel to the Issuer, dated the Closing Date, addressed to the Underwriter, the City, Bond Counsel and the Trustee, in substantially the form attached as **Exhibit B** hereto.

(ix) The opinion of the counsel to the City, dated the Closing Date, addressed to the Underwriter, the Issuer, Bond Counsel and the Trustee, in substantially the form attached as **Exhibit C** hereto.

(x) A supplemental opinion of Bond Counsel, dated the Closing Date, addressed to the Underwriter, in substantially the form attached as **Exhibit D** hereto.

(xi) The opinion of Gilmore & Bell, P.C., as disclosure counsel, dated the Closing Date, addressed to the Issuer, the City and the Underwriter, in substantially the form attached as **Exhibit E** hereto.

(xii) The opinion of FisherBroyles, LLP (“**Underwriter’s Counsel**”), dated the Closing Date, addressed to the Underwriter, in substantially the form attached as **Exhibit F** hereto.

(xiii) Evidence that the Bonds have been rated “_____” (_____ outlook) by S&P Global Ratings.

(xiv) Specimen Bonds.

(xv) Receipts or other evidence that financing statements have been filed for recording under the Uniform Commercial Code with the Secretary of State of the State with respect to the security interests granted or assigned by the Indenture.

(xvi) Evidence that IRS Form 8038-G has been prepared for filing by the Issuer with the Internal Revenue Service regarding the Bonds.

(xvii) Such legal opinions, certificates, proceedings, instruments and other documents as counsel to the Underwriter or Bond Counsel may reasonably request to evidence the redemption and/or defeasance of the Refunded Bonds on the Closing Date.

(xviii) A certificate of the Trustee to the effect that all moneys delivered to the Trustee under and pursuant to the Indenture have been duly deposited to the credit of the appropriate funds established under or in accordance with the Indenture or otherwise applied as provided in the Indenture and that the Trustee has no knowledge of any default or event of default under the Indenture.

(xix) Such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter or counsel to the Underwriter, Bond Counsel or counsel to the Issuer may reasonably request to evidence compliance by the Issuer and the City with legal requirements, the tax exempt status of the Bonds, the truth and accuracy, as of the Closing Time, of the respective representations and warranties of the Issuer and the City contained herein, in the Issuer Agreements or in the Indenture and the due performance or satisfaction by the Issuer and the City at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Issuer and the City.

The Issuer and the City shall furnish the Underwriter with conformed copies of such additional opinions, certificates, letters and documents as the Underwriter reasonably requests.

(e) At the Closing Time, there shall not have occurred any change or any development involving a prospective change in the condition, financial or otherwise, or in the revenues or operations of the City, from that set forth in the Official Statement that in the judgment of the Underwriter, is material and adverse and, in the judgment of the Underwriter, materially impairs the investment quality of the Bonds or the ability of the Underwriter to market the Bonds on the terms and in the manner contemplated in the Official Statement.

(f) If the Issuer or the City is unable to satisfy any such condition, or if the Underwriter’s obligations are terminated for any reason permitted by this Agreement, this Agreement may be canceled by the Underwriter, and, upon such cancellation, the Underwriter, the Issuer and the City shall not be under further obligation except as provided in **Section 10** hereof.

Section 9. Termination. The Underwriter shall have the right to cancel its obligation to purchase the Bond and to terminate this Agreement by written notice to the Issuer and the City if, between the effective date to and including the Closing Time, in the Underwriter's sole and reasonable judgment any of the following events shall occur (each a "**Termination Event**"):

(a) the market price or marketability of the Bonds, or the ability of the Underwriter to enforce contracts for the sale of the Bonds, shall be materially adversely affected by any of the following events:

(i) legislation shall have been enacted by the Congress of the United States or the legislature of the State or shall have been favorably reported out of committee of either body or be pending in committee of either body, or shall have been recommended to the Congress for passage by the President of the United States or a member of the President's Cabinet, or a decision shall have been rendered by a court of the United States or the State or the Tax Court of the United States, or a ruling, resolution, regulation or temporary regulation, release or announcement shall have been made or shall have been proposed to be made by the Treasury Department of the United States or the Internal Revenue Service, or other federal or state authority with appropriate jurisdiction, with respect to federal or state taxation upon interest received on obligations of the general character of the Series 2021A Bonds; or

(ii) there shall have occurred (1) an outbreak or escalation of hostilities or the declaration by the United States of a national emergency or war or (2) any other calamity or crisis in the financial markets of the United States or elsewhere or the escalation of such calamity or crisis; or

(iii) a general suspension of trading on the New York Stock Exchange or other major exchange shall be in force, or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on any such exchange, whether by virtue of determination by that exchange or by order of the SEC or any other governmental authority having jurisdiction; or

(iv) legislation shall have been enacted by the Congress of the United States or shall have been favorably reported out of committee or be pending in committee, or shall have been recommended to the Congress for passage by the President of the United States or a member of the President's Cabinet, or a decision by a court of the United States shall be rendered, or a ruling, regulation, proposed regulation or statement by or on behalf of the SEC or other governmental agency having jurisdiction of the subject matter shall be made, to the effect that any obligations of the general character of the Bonds or the Bond Documents, or any comparable securities of the Issuer or the City, are not exempt from the registration, qualification or other requirements of the Securities Act of 1933, as amended (the "**Securities Act**") or the Trust Indenture Act of 1933, as amended (the "**Trust Indenture Act**") or otherwise, or would be in violation of any provision of the federal securities laws; or

(v) except as disclosed in or contemplated by the Official Statement, any material adverse change in the affairs of the Issuer or the City shall have occurred; or

(vi) any rating on securities of the Issuer or the City which are secured by a pledge or application of the Trust Estate on a parity with the Bonds is reduced or withdrawn or placed on credit watch with negative outlook by any major credit rating agency; or

(b) any event or circumstance shall exist that either makes untrue or incorrect in any material respect any statement or information in the Official Statement (other than any statement provided by the Underwriter) or is not reflected in the Official Statement but should be reflected

therein in order to make the statements therein, in the light of the circumstances under which they were made, not misleading and, in either such event, the Issuer or the City refuses to permit the Official Statement to be supplemented to supply such statement or information, or the effect of the Official Statement as so supplemented is to materially adversely affect the market price or marketability of the Bonds or the ability of the Underwriter to enforce contracts for the sale of the Bonds; or

(c) a general banking moratorium shall have been declared by federal or State authorities having jurisdiction and be in force; or

(d) a material disruption in securities settlement, payment or clearance services affecting the Bonds shall have occurred; or

(e) any new restriction on transactions in securities materially affecting the market for securities (including the imposition of any limitation on interest rates) or the extension of credit by, or a charge to the net capital requirements of, underwriters shall have been established by the New York Stock Exchange, the SEC, any other federal or State agency or the Congress of the United States, or by Executive Order; or

(f) a decision by a court of the United States shall be rendered, or a stop order, release, regulation or no-action letter by or on behalf of the SEC or any other governmental agency having jurisdiction of the subject matter shall have been issued or made, to the effect that the issuance, offering or sale of the Bonds, including the underlying obligations as contemplated by this Agreement or by the Official Statement, or any document relating to the issuance, offering or sale of the Bonds, is or would be in violation of any provision of the federal securities laws at the Closing Date, including the Securities Act, the Securities Exchange Act of 1933, as amended (the “**Exchange Act**”), and the Trust Indenture Act.

Upon the occurrence of a Termination Event and the termination of this Agreement by the Underwriter, all obligations of the Issuer, the City and the Underwriter under this Agreement shall terminate, without further liability, except that the City and the Underwriter shall pay their respective expenses as set forth in **Section 10** hereof.

Section 10. Expenses.

(a) The Underwriter shall be under no obligation to pay, and the City shall pay, any expenses incident to the performance of the Issuer’s and the City’s obligations hereunder, including, but not limited to (i) the cost of preparation and printing of the Bonds, (ii) the fees and disbursements of Bond Counsel and counsel to the Issuer; (iii) the fees and disbursements of the municipal advisor to the City; (iv) the fees and disbursements of any engineers, accountants, and other experts, consultants or advisers retained by the Issuer or the City; (v) the fees for bond ratings and (vi) the fees and expenses incurred in connection with the posting and distribution of the Preliminary Official Statement, the Official Statement and the investor roadshow/investor presentation. The City shall pay for expenses (included in the expense component of the underwriting discount) incurred on behalf of the Issuer’s or the City’s employees, directors or agents which are incidental to this Agreement, including, but not limited to, meals and lodging of such persons or entities and any mementos related to the issuance of the Bonds. Underwriter’s expenses outlined above shall be paid by the City out of costs of issuance.

(b) The Underwriter shall pay (i) the cost of preparation and printing of this Agreement, and the “blue sky” memorandum; (ii) all advertising expenses in connection with the public offering of the Bonds; and (iii) all other expenses incurred by them in connection with the public offering of the Bonds, including the fees and disbursements of Underwriter’s Counsel.

(c) If this Agreement shall be terminated by the Underwriter because of any failure or refusal on the part of the Issuer or the City to comply with the terms or to fulfill any of the conditions of this Agreement, or if for any reason the Issuer or the City shall be unable to perform its obligations under this Agreement, the City will reimburse the Underwriter for all out-of-pocket expenses (including the fees and disbursements of Underwriter's Counsel) reasonably incurred by the Underwriter in connection with this Agreement or the offering contemplated hereunder.

Section 11. Establishment of Issue Price for the Series 2021A Bonds.

(a) The Underwriter agrees to assist the Issuer and the City in establishing the issue price of the Series 2021A Bonds and shall execute and deliver to the Issuer and the City at Closing an "issue price" or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as **Exhibit A**, with such modifications as may be appropriate or necessary, which, in the reasonable judgment of the Underwriter, the Issuer, the City and Bond Counsel, accurately reflects, as applicable, the sales price or prices or the initial offering price or prices to the public of the Series 2021A Bonds.

(b) The Underwriter has offered the Series 2021A Bonds to the public on or before the date of this Agreement at the offering price or prices (the "**initial offering price**"), or at the corresponding yield or yields, set forth in **Schedule I** attached hereto. The Issuer, the City and the Underwriter agree that the restrictions set forth in the next sentence shall apply to all maturities of the Series 2021A Bonds, which will allow the City and the Issuer to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the "**hold-the-offering-price rule**"). So long as the hold-the-offering-price rule remains applicable to any maturity of the Series 2021A Bonds, the Underwriter will neither offer nor sell unsold Series 2021A Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (i) the close of the fifth (5th) business day after the sale date; or
- (ii) the date on which the Underwriter has sold at least 10% of that maturity of the Series 2021A Bonds to the public at a price that is no higher than the initial offering price to the public.

The Underwriter shall promptly advise the City and the Issuer when the Underwriter has sold 10% of each maturity of the Series 2021A Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

The Issuer and the City acknowledge that, in making the representation set forth in this subsection, the Underwriter will rely on (i) the agreement of each underwriter to comply with the hold-the-offering-price rule, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Series 2021A Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that the Underwriter is a party to a third-party distribution agreement that was employed in connection with the initial sale of the Series 2021A Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, as set forth in the third-party distribution agreement and the related pricing wires. The Issuer and the City further acknowledge that the Underwriter shall be solely liable for its failure to comply with its agreement regarding the hold-the-offering-price rule and that the Underwriter shall not be liable for the failure of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement, to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Series 2021A Bonds.

(c) The Underwriter confirms that:

(i) any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the Underwriter is a party) relating to the initial sale of the Series 2021A Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution agreement, as applicable, to (A) report the prices at which it sells to the public the unsold Series 2021A Bonds of each maturity allotted to it until it is notified by the Underwriter that either 10% of that maturity of the Series 2021A Bonds have been sold to the public or all Series 2021A Bonds of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the related pricing wires, and

(ii) any agreement among underwriters relating to the initial sale of the Series 2021A Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the Series 2021A Bonds to the public to require each broker-dealer that is a party to such third-party distribution agreement to (A) report the prices at which it sells to the public the unsold Series 2021A Bonds of each maturity allotted to it until it is notified by the Underwriter that either 10% of that maturity of the Series 2021A Bonds have been sold to the public or all Series 2021A Bonds of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the related pricing wires.

(d) The Underwriter acknowledges that sales of any Series 2021A Bonds to any person that is a related party to an underwriter (each such term being used as defined below) shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

(i) “public” means any person other than an underwriter or a related party to an underwriter,

(ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Series 2021A Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) to participate in the initial sale of the Series 2021A Bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Series 2021A Bonds to the public),

(iii) a purchaser of any of the Series 2021A Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) “sale date” means the date of execution of this Agreement by all parties.

Section 12. Reimbursement for Certain Liabilities.

(a) To the extent permitted by applicable law, the City shall be liable to the Underwriter and the Issuer, the directors, officer, employees and agents of each Underwriter and the Issuer, and each person who controls each Underwriter and the Issuer, within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, (each, a “**Protected Underwriter/Issuer Party**”) against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Securities Act, the Exchange Act or other Federal or state law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon, any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Official Statement or the Official Statement (or in a supplement or amendment thereto) or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and the City shall be liable to reimburse each such Protected Underwriter/Issuer Party, as incurred, for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the City will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or mission or alleged omission made in the Preliminary Official Statement or the Official Statement, or in any amendment thereof or supplement thereto, in reliance upon and in conformity with written information furnished to the City by the Issuer specifically for inclusion therein, or written information furnished to the City by the Underwriter specifically for inclusion under the heading “**UNDERWRITING**” therein. This protection will be in addition to any liability which the City may otherwise have.

(b) The Underwriter will reimburse the Issuer and the City, and hold them harmless, together with each of its members, directors, officers, and employees, and each person who controls the Issuer or the City within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (each a “**Protected Issuer/City Party**” and, together with a Protected Underwriter/Issuer Party, a “**Protected Party**”), to the same extent as the foregoing reimbursement from the City to the Underwriter and Issuer, but only with reference to written information relating to the Underwriter furnished by the Underwriter specifically for inclusion in the preparation of the Preliminary Official Statement and the Official Statement. This reimbursement agreement will be in addition to any liability which the Underwriter may otherwise have. Each of the Issuer and the City acknowledges that the statements under the heading “**UNDERWRITING**” in the Preliminary Official Statement and the Official Statement constitute the only information furnished in writing by or on behalf of the Underwriter for inclusion in the Preliminary Official Statement and the Official Statement.

(c) In case any claim shall be made or action brought against a Protected Party for which reimbursement may be sought against any reimbursing party, as provided above, the Protected Party shall promptly notify the reimbursing party in writing setting forth the particulars of such claim or action and the reimbursing party shall assume the defense thereof, including the retaining of counsel acceptable to such Protected Party and the payment of all expenses and shall have the right to negotiate and consent to settlement. A Protected Party shall have the right to retain separate counsel in any such action and to participate in the defense thereof but the fees and expenses of such counsel shall be at the expense of such Protected Party unless the employment of such counsel has been specifically authorized by the reimbursing party or the reimbursing party shall not have employed counsel reasonably acceptable to the Protected Party to have charge of the defense of such action or proceeding or the Protected Party shall have reasonably concluded that there may be defenses available to it which are different from or additional to those available to the reimbursing party (in which case the reimbursing party shall not have the right to direct the defense of such action or proceeding on behalf of the Protected Party), in any of which events, such legal or other expenses shall be borne by the reimbursing party. No party shall be liable for any settlement of any action effected without its consent, but if settled with the consent of the reimbursing party or if there is a final judgment for the plaintiff in any action with or without written consent of the reimbursing party, the reimbursing party agrees to reimburse and hold

harmless the Protected Parties to the extent of the provisions set forth above from and against any loss or liability by reason of such settlement or judgment.

(d) If the reimbursement provided for in this **Section 12** is unenforceable, or is unavailable to a reimbursing party in respect of any losses, claims, damages, or liabilities (or actions in respect thereof) of the type subject to reimbursement herein, then the reimbursing party shall, in lieu of reimbursing such person, contribute to the amount paid or payable by such person as a result of such losses, claims, damages, or liabilities (or actions in respect thereof). In the case of the City and the Underwriter, contribution shall be in such proportion as is appropriate to reflect the relative benefits received by the City, on the one hand, and the Underwriter, on the other, from the sale of the Bonds. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law then the reimbursing party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the City, on the one hand, and the Underwriter, on the other, in connection with the statements or omissions which resulted in such losses, claims damages or liabilities (or action in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the City on the one hand and the Underwriter on the other shall be deemed to be in the same proportion as the total proceeds of sale of the Bonds paid to the City pursuant to **Section 1** hereof (before deducting expenses) bear to the underwriting discount received by the Underwriter (the difference between the initial public offering price for the Bonds and the price to be paid therefor by the Underwriter as set forth in the Official Statement under the heading "UNDERWRITING"). The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the City or the Underwriter and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such untrue statement or omission. The City and the Underwriter agree that it would not be just and equitable if contribution pursuant to this subsection were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection. The amount paid or payable by any person as a result of the losses, claims, damages, or liabilities (or actions in respect thereof) referred to above shall be deemed to include any legal or other expenses reasonably incurred by such person in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this paragraph, however, the Underwriter shall not be required to contribute an amount in excess of the amount by which such initial public offering price exceeds the amount of any damages which the Underwriter have otherwise been required to pay by reason of such untrue or alleged untrue statement or omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 10(b) of the Securities Act) with respect to a claim shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation with respect to such claim.

(e) The provisions of this **Section 12** shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of the Underwriter, (ii) delivery of and payment for the Bonds hereunder, and (iii) any termination of this Bond Purchase Agreement.

Section 13. Notices. Any notice or other communication to be given to the Issuer or the City under this Agreement may be given by delivering the same in writing at such party's address set forth above, and any notice or other communication to be given to the Underwriter under this Agreement may be given by delivering it in writing to the Underwriter at the following address: Morgan Stanley & Co. LLC, 1585 Broadway, 16th Floor, New York, New York 10036, Attention: Kaumudi Atapattu.

Section 14. Parties in Interest; Survival of Representations and Warranties. This Agreement as heretofore specified shall constitute the entire agreement between the Issuer, the City, and the Underwriter and is made solely for the benefit of the Issuer and the Underwriter (including successors or assigns of the Underwriter) and no other person shall acquire or have any right hereunder or by virtue hereof. This Agreement may not be assigned by the Issuer or the City. All of the Issuer's and the City's representations, warranties and agreements contained in this Agreement shall remain operative and in full force and effect, regardless of (i) any

investigations made by or on behalf of the Underwriter; (ii) delivery of and payment for the Bonds pursuant to this Agreement; and (iii) any termination of this Agreement.

Section 15. Effectiveness. This Agreement shall become effective upon the acceptance hereof by the Issuer and the City and shall be valid and enforceable at the time of such acceptance.

Section 16. Choice of Law. This Agreement shall be deemed to be a contract under, and for all purposes shall be governed by, and construed and interpreted in accordance with, the laws of the State of New York without regard to choice of law rules (other than New York General Obligations Laws Section 5-1401 and 5-1402); provided, however, that the obligation of the Issuer and the City shall be governed by, and construed and interpreted in accordance with the laws of the State of Missouri.

Section 17. 18. Anti-Discrimination. The Underwriter hereby certifies and agrees that, to the extent that the “Anti-discrimination Against Israel Act,” Section 34.600, Revised Statutes of Missouri (the “**Israel Act**”), is applicable to any contract entered into with the Issuer or the City in connection with the Bonds, the Underwriter is not currently engaged in and shall not, for the duration of such contract, engage in a boycott of goods or services from the State of Israel (“**Israel**”), companies doing business in or with Israel or authorized by, licensed by or organized under the laws of Israel or persons or entities doing business with Israel, in all respects within the meaning of the Israel Act. Failure to comply with the foregoing certification shall be enforceable in accordance with the terms of such contract. The foregoing certification shall not be deemed an admission or agreement that the Israel Act is applicable to the aforesaid contracts but the foregoing certification is enforceable if the Israel Act is applicable. If the Israel Act is determined not to apply to the applicable contract for any reason including the repeal or amendment of the Israel Act or any ruling of a court of competent jurisdiction as to the unenforceability or invalidity of the Israel Act, then the certification shall be of no effect.

Section 18. Severability. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provisions of any Constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever.

Section 19. Business Day. For purposes of this Agreement, “business day” means any day on which the New York Stock Exchange is open for trading.

Section 20. Section Headings. Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provisions of this Agreement.

Section 21. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be sent, stored and received by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 22. Counterparts; Electronic Signatures. This Agreement may be executed in several counterparts each of which shall be regarded as an original (with the same effect as if the signatures thereto and hereto were upon the same document) and all of which shall constitute one and the same document. A signature to this Bond Purchase Agreement delivered by facsimile, e-mail in portable document format (.pdf) or DocuSign electronic signature system shall be deemed to be an original manual signature and shall be binding upon the executing party and have the same legal effect as an original manual signature.

(Remainder of this page intentionally left blank)

If the City and the Issuer agree with the foregoing, please sign the enclosed counterpart of this Agreement and return it to the Underwriter. This Agreement will become a binding agreement among the Issuer, the City and the Underwriter when at least one counterpart of this Agreement has been signed on behalf of each of the parties.

Very truly yours,

MORGAN STANLEY & CO. LLC

By: _____
Name: _____
Title: _____

We agree to the foregoing:

Accepted and agreed to on September ____, 2021 at
_____:_____.m.:

**MISSOURI DEVELOPMENT FINANCE
BOARD**

By: _____
Name: Kim Martin
Title: Acting Executive Director

Accepted and agreed on September ____, 2021 at
_____:_____.m.:

CITY OF INDEPENDENCE, MISSOURI

By: _____
Name: Zachary Walker
Title: City Manager

SCHEDULE I

\$ _____

**Missouri Development Finance Board
Infrastructure Facilities Refunding Revenue Bonds
(City of Independence, Missouri – Annual Appropriation
Sewer System Revenue Bonds)
Series 2021A**

Dated: October [13], 2021

[maturity schedule for Series 2021A Bonds from pricing to be inserted]

\$ _____
Missouri Development Finance Board
Taxable Infrastructure Facilities Refunding Revenue Bonds
(City of Independence, Missouri – Annual Appropriation
Sewer System Revenue Bonds)
Series 2021B

Dated: October [13], 2021

[maturity schedule for Series 2021B Bonds from pricing to be inserted]

EXHIBIT A

FORM OF ISSUE PRICE CERTIFICATE

related to

\$ _____

**Missouri Development Finance Board
Infrastructure Facilities Refunding Revenue Bonds
(City of Independence, Missouri – Annual Appropriation
Sewer System Revenue Bonds)
Series 2021A**

The undersigned, on behalf of Morgan Stanley & Co. LLC (the “**Original Purchaser**”), as the Original Purchaser of the above-described bonds (the “**Series 2021A Bonds**”), being issued on the date of this Certificate by Missouri Development Finance Board (the “**Issuer**”), certifies and represents as follows:

1. Initial Offering Price of the Series 2021A Bonds.

(a) As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity of the Series 2021A Bonds was sold to the Public is the respective price listed in **Schedule A**.

The Original Purchaser offered the Series 2021A Bonds to the Public for purchase in a bona fide initial offering at the respective initial offering prices listed in **Schedule A** (the “**Initial Offering Prices**”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Series 2021A Bonds is attached to this certificate as **Schedule B**.

(b) As set forth in the Bond Purchase Agreement, dated September [30], 2021 among the Issuer, the City of Independence, Missouri (the “**City**”) and the Original Purchaser, the Original Purchaser has agreed in writing that, (i) for each Hold-the-Offering-Price Maturity of the Series 2021A Bonds, they would neither offer nor sell any of the Series 2021A Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “**hold-the-offering-price rule**”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any third-party distribution agreement shall contain the agreement of each broker-dealer who is a party to the third-party distribution agreement, to comply with the hold-the-offering-price rule. The Original Purchaser has not offered or sold any unsold Series 2021A Bonds of any Maturity at a price higher than the respective Initial Offering Price for that Maturity of the Series 2021A Bonds during the Holding Period.

2. Defined Terms.

(a) “**General Rule Maturities**” means those Maturities of the Series 2021A Bonds listed in **Schedule A** hereto as the “General Rule Maturities”.

(b) “**Hold-the-Offering-Price Maturities**” means those Maturities of the Series 2021A Bonds, if any, listed in **Schedule A** hereto as the “Hold-the-Offering-Price Maturities.”

(c) “**Holding Period**” means, with respect to any Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth (5th) business day after the Sale Date (October [7], 2021), or (ii) the date on which the Original Purchaser has sold at least 10% of such Maturity to the Public at prices that are no higher than the Initial Offering Price for such Maturity.

(d) “**Maturity**” means Series 2021A Bonds with the same credit and payment terms. Series 2021A Bonds with different maturity dates, or Series 2021A Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(e) “**Public**” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “**related party**” for purposes of this certificate means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(f) “**Sale Date**” means the first day on which there is a binding contract in writing for the sale of a Maturity of the Series 2021 Bonds. The Sale Date of the Series 2021A Bonds is September [30], 2021.

(g) “**Underwriter**” means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Series 2021A Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Series 2021A Bonds to the Public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Series 2021A Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Underwriter’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the tax certificate and with respect to compliance with the federal income tax rules affecting the Series 2021A Bonds, and by Gilmore & Bell, P.C. in connection with rendering their opinion that the interest on the Series 2021A Bonds is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038-G, and other federal income tax advice they may give to the Issuer from time to time relating to the Series 2021A Bonds. The representations set forth herein are not necessarily based on personal knowledge.

MORGAN STANLEY & CO. LLC, as Underwriter

By: _____
Name: _____
Title: _____

Date: October ____, 2021

SCHEDULE A
INITIAL OFFERING PRICES

(See Attached)

SCHEDULE B

Sale Price Documentation

[Attach Actual Sales Data Certification or Documentation]

EXHIBIT B

FORM OF OPINION OF ISSUER'S COUNSEL

[LETTERHEAD OF GILMORE & BELL, P.C.]

October __, 2021

Missouri Development Finance Board
Jefferson City, Missouri

Morgan Stanley & Co. LLC
New York, New York

City of Independence, Missouri
Independence, Missouri

UMB Bank, N.A., as Trustee
Kansas City, Missouri

Re: \$_____ Missouri Development Finance Board, Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021A; \$_____ Missouri Development Finance Board, Taxable Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021B

Ladies and Gentlemen:

We have acted as counsel to the Missouri Development Finance Board (the “Board”) and, as such, we have examined the following in connection with the issuance of the above-referenced Bonds:

- (i) Minutes of the meetings and resolutions of the Board;
- (ii) the Bond Trust Indenture dated as of October 1, 2021 (the “Indenture”), between the Board and UMB Bank, N.A., as Trustee (the “Trustee”);
- (iii) the Financing Agreement dated as of October 1, 2021 (the “Financing Agreement”), between the Board and the City of Independence, Missouri, a constitutional charter city and political subdivision of the State of Missouri (the “City”);
- (iv) Tax Compliance Agreement dated as of October 1, 2021, by and among the Board, the City and the Trustee;
- (v) Escrow Trust Agreement dated as of October 1, 2021, by and among the Board, the City and the Trustee, as escrow agent;
- (vi) Bond Purchase Agreement dated September __, 2021, among the Board, the City and Morgan Stanley & Co. LLC, as Underwriter; and
- (vii) such other records and instruments of the Board together with applicable certificates and such other documents as we deem relevant in rendering this opinion.

Based upon such examination, it is our opinion that:

1. The Board is a body corporate and politic duly organized and validly existing under the laws of the State of Missouri, has all necessary power to carry on its present business, has full power, right and authority to enter into the documents described in paragraphs (ii) through (vi) above (the “Board Documents”), to issue the Bonds, to secure the Bonds in the manner contemplated by the Indenture and to perform each and all of the matters and things herein and therein provided for.

2. The Resolution of the Board, adopted on September 21, 2021 (the “Resolution”) with respect to the Bonds and the Board Documents, was adopted pursuant to all applicable laws. The execution, delivery and performance by the Board of the Board Documents and the issuance of the Bonds have been duly authorized by all necessary action, and the Board Documents and the Bonds constitute legal, valid and binding obligations of the Board enforceable in accordance with their terms, except to the extent that enforceability may be limited by bankruptcy, insolvency or other laws affecting creditors’ rights generally.

3. The execution, delivery and performance by the Board of the Bonds and the Board Documents does not and will not violate (a) any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award as currently in effect to which the Board is subject; (b) result in a breach of or constitute a default under the provisions of any indenture, loan or credit agreement or any other agreement, lease or instrument to which the Board may be or is subject or by which it, or its property, is bound; or (c) result in, or require, the creation or imposition of any mortgage, deed of trust, assignment, pledge, lien, security interest or other charge or encumbrance of any nature or with respect to any of the properties of the Board other than as provided therein; and the Board is not in default under any such law, rule, regulation, order, writ, judgment, injunction, decree, determination or award.

4. All approvals, consents, authorizations and orders required to be obtained by the Board in connection with the issuance, sale and delivery of the Bonds and the execution and delivery of the Board Documents and the performance of the terms thereof by the Board have been duly obtained.

5. To the best of our knowledge, there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending or, to our knowledge, threatened against or affecting the Board, (a) wherein an unfavorable decision, ruling or finding would materially adversely affect (i) the transactions contemplated by, or the validity of the Board Documents or the Bonds, or any agreement or instrument to which the Board is a party and which is used or contemplated for use in the consummation of the transactions contemplated by the Board Documents and the Bonds or (ii) the tax-exempt status of the Board or of the interest on the Bonds, or (b) which in any way contests the existence, organization or powers of the Board or the titles of the officers of the Board to their respective offices.

6. The statements contained in the Official Statement dated September ____, 2021, under the captions “INTRODUCTION – The Board,” “THE BOARD” and “LITIGATION – The Board” are accurate and present a fair summary of the matters purported to be described therein, and we have no reason to believe that the information contained under such captions of the Official Statement as of its date and as of the date hereof contained or contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

Very truly yours,

EXHIBIT C

FORM OF OPINION OF CITY'S COUNSEL

[LETTERHEAD OF LAUBER MUNICIPAL LAW, LLC]

October __, 2021

Missouri Development Finance Board
Jefferson City, Missouri

Morgan Stanley & Co. LLC
New York, New York

City of Independence, Missouri
Independence, Missouri

UMB Bank, N.A., as Trustee
Kansas City, Missouri

Re: \$_____ Missouri Development Finance Board, Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021A; \$_____ Missouri Development Finance Board, Taxable Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021B

Ladies and Gentlemen:

I am the City Counselor for the City of Independence, Missouri, a constitutional charter city and political subdivision of the State of Missouri (the “City”) and, as such, in connection with the loan by the Missouri Development Finance Board (the “Board”) of the proceeds of the above-referenced bonds (the “Bonds”) to the City I have examined the following:

- (a) Minutes of the meeting and Ordinance No. _____ of the City passed on September 20, 2021 (said Ordinance being referred to as the “Authorizing Ordinance”).
- (b) Financing Agreement dated as of October 1, 2021, (the “Financing Agreement”) between the Board and the City;
- (c) Tax Compliance Agreement dated as of October 1, 2021, among the Board, the City and UMB Bank, N.A., as Trustee (the “Trustee”).
- (d) Continuing Disclosure Undertaking dated as of October 1, 2021 (the “Continuing Disclosure Undertaking”) executed by the City for the benefit of holders of the Bonds.
- (e) Escrow Trust Agreement dated as of October 1, 2021, among the Board, the City and the Trustee, as escrow agent.
- (f) Bond Purchase Agreement dated as of September __, 2021, among the Board, the City and Morgan Stanley & Co. LLC, as Underwriter.
- (g) Preliminary Official Statement dated September __, 2021 (the “Preliminary Official Statement”) and Official Statement dated September __, 2021 (the “Official Statement”) relating to the Bonds.

(h) Such other records and instruments of the City together with applicable certificates and such other documents as I have deemed relevant in rendering this opinion.

Based upon such examination, it is my opinion that:

1. The City is a constitutional charter city and political subdivision of the State of Missouri duly organized and validly existing under the laws of the State of Missouri, has all necessary power to carry on its present business, has full power, right and authority to enter into the documents described in paragraphs (b) through (g) above (the "City Documents") and to perform each and all of the matters and things herein and therein provided for.

2. The Authorizing Ordinance authorizing the execution and delivery of the City Documents was duly passed pursuant to all applicable laws and is in full force and effect. The execution, delivery and performance by the City of the City Documents has been duly authorized by all necessary action, and the City Documents constitute legal, valid and binding obligations of the City enforceable in accordance with their terms, except to the extent that enforceability may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally.

3. The execution, delivery and performance by the City of the City Documents does not and will not violate (a) any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award as currently in effect to which the City is subject; (b) result in a breach of or constitute a default under the provisions of the City's Charter or any indenture, loan or credit agreement or any other agreement, lease or instrument to which the City may be or is subject or by which it, or its property, is bound; or (c) result in, or require, the creation or imposition of any mortgage, deed of trust, assignment, pledge, lien, security interest or other charge or encumbrance of any nature or with respect to any of the properties of the City other than as provided therein; and the City is not in default under any such law, rule, regulation, order, writ, judgment, injunction, decree, determination or award.

4. No authorizations, consents, approvals, licenses, exemptions of or filings or registrations with any governmental commission, city, bureau, agency or instrumentality, domestic or foreign, or otherwise is necessary for the valid execution, delivery and performance by the City of the City Documents.

5. To the best of my knowledge, there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending or, to our knowledge, threatened against or affecting the City, (a) wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by, or the validity of the City Documents, or any agreement or instrument to which the City is a party and which is used or contemplated for use in the consummation of the transactions contemplated by the City Documents, or (b) which in any way contests the existence, organization or powers of the City or the titles of the officers of the City to their respective offices.

6. The statements contained in the Preliminary Official Statement and the Official Statement related to the Bonds, including Appendix A thereto, describing the City are accurate and present a fair summary of the matters purported to be described therein to the best of my knowledge and belief, and I have no reason to believe that the information contained in the Preliminary Official Statement as of its date and the Official Statement as of its date and as of the date hereof contained or contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, in my opinion, not misleading.

Very truly yours,

EXHIBIT D

FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL

[LETTERHEAD OF GILMORE & BELL, P.C.]

October ____, 2021

Missouri Development Finance Board
Jefferson City, Missouri

Morgan Stanley & Co. LLC
New York, New York

City of Independence, Missouri
Independence, Missouri

UMB Bank, N.A., as Trustee
Kansas City, Missouri

Re: \$_____ Missouri Development Finance Board, Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021A; \$_____ Missouri Development Finance Board, Taxable Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021B

Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the issuance by the Missouri Development Finance Board (the “Board”) of its Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021A (the “Series 2021A Bonds”) and its Taxable Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Annual Appropriation Sewer System Revenue Bonds), Series 2021B (the “Series 2021B Bonds,” and together with the Series 2021A Bonds, the “Bonds”). The Bonds have been authorized and issued under and pursuant to Sections 100.250 to 100.297, inclusive, of the Revised Statutes of Missouri, as amended (the “Act”), and a Bond Trust Indenture dated as of October 1, 2021 (the “Indenture”), between the Board and UMB Bank, N.A., as trustee (the “Trustee”). Capitalized terms not otherwise defined herein shall have the meanings assigned in the Indenture.

The proceeds of the Bonds will be used by the Board to make a loan to the City of Independence, Missouri, a constitutional charter city and political subdivision of the State of Missouri (the “City”), pursuant to a Financing Agreement dated as of October 1, 2021 (the “Financing Agreement”) between the Board and the City.

Regarding questions of fact material to the views expressed herein, we have relied on the certified proceedings and other certifications of public officials and others furnished to us without undertaking to verify them by independent investigation.

Based on and subject to the foregoing, we are of the view, under existing law, as follows:

1. The Bonds are exempt from registration under the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended.

2. The Bond Purchase Agreement has been duly authorized, executed and delivered by the Board and the City and constitutes a valid and legally binding agreement of the Board and the City, enforceable against the Board and the City, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

The views expressed herein are limited to the federal laws of the United States and the laws of the State of Missouri.

This opinion is delivered to you for your use only and may not be used or relied on by any third party for any purpose without our prior written approval in each instance.

This opinion is given as of its date, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may come to our attention or any changes in law that may occur after the date of this opinion.

Very truly yours,