

BILL NO. 1527

ORDINANCE NO. 1398

**AN ORDINANCE AUTHORIZING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF \$10,215,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 1998, OF THE CITY OF CHESTERFIELD, MISSOURI; PRESCRIBING THE FORM AND DETAILS OF SAID BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

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**WHEREAS**, the City of Chesterfield, Missouri (the "City"), is a City of the third class and political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and

**WHEREAS**, the City has heretofore issued and has outstanding the following series of general obligation bonds:

<u>Series of Bonds</u>	<u>Date of Bonds</u>	<u>Original Principal Amount</u>	<u>Amount Outstanding</u>
Series 1995	February 15, 1995	\$11,000,000	\$10,140,000

**WHEREAS**, the City desires to refund all of said Series 1995 Bonds, and the City is authorized under the provisions of Article VI, Section 28 of the Constitution of Missouri, 1945, as amended, and Section 108.140 of the Revised Statutes of Missouri, as amended (the "Refunding Bond Law"), to refund, extend and unify the whole or part of its valid general obligation indebtedness; and

**WHEREAS**, the Refunding Bond Law authorizes the issuance of general obligation refunding bonds in an amount not to exceed the principal amount of the bonds to be refunded and the accrued interest thereon to the date of the refunding bonds, which amount aggregates a total of \$10,302,741.42 for the refunding herein authorized; and

**WHEREAS**, it is hereby found and determined that it is necessary and advisable and in the best interest of the City and of its inhabitants at this time to authorize the issuance and delivery of said bonds pursuant to the Refunding Bond Law for the purpose aforesaid as herein provided;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, MISSOURI, AS FOLLOWS:**

## ARTICLE I

### DEFINITIONS

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

**"Arbitrage Instructions"** means the Arbitrage Instructions attached to the City's Arbitrage Certificate, as the same may be amended or supplemented in accordance with the provisions thereof.

**"Bond Counsel"** means Gilmore & Bell, P.C., St. Louis, Missouri, or other attorneys or firm of attorneys with a nationally recognized standing in the field of municipal bond financing selected by the City.

**"Bond Payment Date"** means any date on which principal of or interest on any Bond is payable.

**"Bond Register"** means the books for the registration, transfer and exchange of Bonds kept at the office of the Paying Agent.

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

**"Bonds"** means the General Obligation Refunding Bonds, Series 1998, authorized and issued by the City pursuant to this Ordinance.

**"Business Day"** means a day other than a Saturday, Sunday or holiday on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its banking operations.

**"City"** means the City of Chesterfield, Missouri, and any successors or assigns.

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

**"Costs of Issuance Fund"** means the Fund by that name created by **Section 501** hereof.

**"Debt Service Fund"** means the fund by that name referred to in **Section 501** hereof.

**"Defaulted Interest"** means interest on any Bond which is payable but not paid on any Interest Payment Date.

**"Defeasance Obligations"** means any of the following obligations:

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

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

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

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

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

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

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

(6) the obligations are rated in the highest rating category by Moody's Investors Service, Inc. (presently "Aaa") or Standard & Poor's Ratings Services (presently "AAA").

**"Escrow Agent"** means UMB Bank of St. Louis, N.A., whose principal corporate trust office is located in Kansas City, Missouri, and any successors or assigns

**"Escrow Fund"** means the fund by that name referred to in **Section 501** hereof.

**"Escrow Agreement"** means the Escrow Trust Agreement dated as of May 1, between the City and the Escrow Agent.

**"Escrowed Securities"** means the direct, noncallable obligations of the United States of America, as described in the Escrow Agreement.

**"Interest Payment Date"** means the Stated Maturity of an installment of interest on any Bond.

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

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

**"Outstanding"** means, when used with reference to Bonds, as of any particular date of determination, all Bonds theretofore authenticated and delivered hereunder, except the following Bonds:

- (a) Bonds theretofore cancelled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of **Section 701** hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered hereunder.

**"Paying Agent"** means UMB Bank of St. Louis, N.A., whose principal corporate trust office is located in Kansas City, Missouri, and any successors or assigns.

**"Permitted Investments"** means any of the following securities, if and to the extent the same are at the time legal for investment of the City's funds:

- (a) United States Government Obligations;
- (b) bonds, notes or other obligations of the State of Missouri, or any political subdivision of the State of Missouri, that at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized rating service;
- (c) repurchase agreements with any bank, bankholding company, savings and loan association, trust company, or other financial institution organized under the laws of the United States or any state, that are continuously and fully secured by any one or more of the securities described in clause (a) or (b) above and that have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such repurchase agreement and are held in a custodial or trust account for the City's benefit;
- (d) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation; and
- (e) certificates of deposit or time deposits, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of the United States or any state, provided that such certificates of deposit or time deposits shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c), inclusive, which shall have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such certificates of deposit or time deposits.

**"Person"** means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

**"Purchaser"** means Piper Jaffray, Kansas City, Missouri, as representative of the original purchaser of the Bonds.

**"Rebate Fund"** means the fund by that name referred to in **Section 501** hereof.

**"Record Date"** for the interest payable on any Interest Payment Date means the 15th day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

**"Redemption Date"** when used with respect to any Bond to be redeemed means the date fixed for the redemption of such Bond pursuant to the terms of this Ordinance.

**"Redemption Price"** when used with respect to any Bond to be redeemed means the price at which such Bond is to be redeemed pursuant to the terms of this Ordinance, which price is to be stated as a percentage of the principal amount of those Bonds to be redeemed.

**"Refunding Bond Law"** means Article VI, Section 28 of the Constitution of Missouri, 1945, as amended, and Section 108.140 of the Revised Statutes of Missouri, as amended.

**"Series 1995 Bond Ordinance"** means Ordinance No. 985 of the City adopted on January 10, 1995, authorizing the issuance of the Series 1995 Bonds.

**"Series 1995 Bonds"** means the City's General Obligation Bonds, Series 1995, being refunded pursuant to this Ordinance.

**"Special Record Date"** means the date prior to the payment date of Defaulted Interest fixed by the Paying Agent pursuant to **Section 204** hereof.

**"Stated Maturity"** when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Ordinance as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

**"United States Government Obligations"** means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the City's benefit.

## ARTICLE II

### AUTHORIZATION OF BONDS

**Section 201. Authorization of Bonds.** There shall be issued and hereby are authorized and directed to be issued the City's General Obligation Refunding Bonds, Series 1998, of the City in the principal amount of \$10,215,000 (the "Bonds"), which are being issued for the purpose of refunding the Series 1995 Bonds and paying the costs of issuance of the Bonds.

**Section 202. Description of Bonds.** The Bonds shall consist of fully registered bonds without coupons, numbered from 1 upward in order of issuance, in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be substantially in the form set forth in **Exhibit A** attached hereto, and shall be subject to registration, transfer and exchange as provided in **Section 205** hereof. All of the Bonds shall be dated the date of delivery thereof, shall become due in the amounts on the Stated Maturities, subject to redemption and payment prior to their Stated Maturities as provided in **Article III** hereof, and shall bear interest at the rates per annum, as follows:

#### SERIAL BONDS

<u>Stated Maturity</u> <u>February 15</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
1999	\$440,000	7.300%
2000	400,000	7.300
2001	420,000	7.300
2002	450,000	5.125
2003	475,000	4.300
2004	510,000	4.350
2005	530,000	4.450
2006	555,000	4.500
2007	580,000	4.550
2008	610,000	4.550
2009	640,000	4.650
2010	675,000	4.750
2011	710,000	4.850
2012	745,000	4.900
2013	780,000	5.000
2014	825,000	5.000
2015	870,000	5.000

The Bonds shall bear interest at the above-specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the date thereof or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable semiannually on February 15 and August 15 in each year, beginning on August 15, 1998.

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

**Section 203. Designation of Paying Agent.** UMB Bank of St. Louis, N.A., St. Louis, Missouri, is hereby designated as the City's paying agent for the payment of principal of and interest on the Bonds and bond registrar with respect to the registration, transfer and exchange of Bonds (the "Paying Agent").

The City will at all times maintain a Paying Agent meeting the qualifications herein described for the performance of the duties hereunder. The City reserves the right to appoint a successor Paying Agent by (1) filing with the Paying Agent then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent and appointing a successor, and (2) causing notice of the appointment of the successor Paying Agent to be given by first class mail to each Bondowner. No resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of Paying Agent.

Every Paying Agent appointed hereunder shall at all times be a commercial banking association or corporation or trust company located in the State of Missouri organized and doing business under the laws of the United States of America or of the State of Missouri, authorized under such laws to exercise trust powers and subject to supervision or examination by federal or state regulatory authority. The Paying Agent shall be paid its usual fees and expenses for services rendered by it in connection with the Bonds.

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

The principal or Redemption Price of each Bond shall be paid at Maturity by check or draft to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal corporate trust office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Registered Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register or (b) in the case of an interest payment to any Registered Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Registered Owner upon written notice given to the Paying Agent by such Registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank (which shall be in the continental United States), ABA routing number and account number to which such Registered Owner wishes to have such transfer directed.

Any payment of principal of, Redemption Price, or interest on the Bonds that becomes due on a day when the Paying Agent is not open for business shall be made on the next succeeding Business Day without additional interest accruing after the stated due date.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Registered Owner of such Bond on the relevant Record Date and shall be payable to the Registered Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The City shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent unless the City and the Paying Agent agree to a shorter time period) and shall deposit with the Paying

Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment, unless the City and the Paying Agent agree to a shorter time period. The Paying Agent shall promptly notify the City of such Special Record Date and, in the name and at the City's expense, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first class mail, postage prepaid, to each Registered Owner of a Bond entitled to such notice at the address of such Registered Owner as it appears on the Bond Register on such Special Record Date.

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

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

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal corporate trust office of the Paying Agent, the Paying Agent shall transfer or exchange such Bond for a new Bond or Bonds in any authorized denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange. Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

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

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



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

At reasonable times and under reasonable regulations established by the Paying Agent, the Bond Register may be inspected and copied by the Registered Owners of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Registered Owners. Any designated representative of such Registered Owners must be evidenced to the satisfaction of the Paying Agent.

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

The Mayor and City Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the State Auditor of Missouri as provided by law, and, when duly executed and registered, to deliver the Bonds to the Paying Agent for authentication.

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

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

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

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

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

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

**Section 209. Preliminary and Final Official Statement.** The Preliminary Official Statement, in the form attached hereto as **Exhibit B**, is hereby ratified and approved, and the final Official Statement is hereby authorized and approved by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Mayor is hereby authorized to execute the final Official Statement as so supplemented, amended and completed, and the use and public distribution of the final Official Statement by the Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper officials of the City are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Bonds.

For the purpose of enabling the Purchaser to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission, the City hereby deems the information regarding the City contained in the Preliminary Official Statement to be "final" as of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1), and the appropriate officers of the City are hereby authorized, if requested, to provide the Purchaser a letter or certification to such effect and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Purchaser to comply with the requirement of such Rule.

The City agrees to provide to the Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the final Official Statement to enable the Purchaser to comply with the requirements of Rule 15c2-12(b)(4) of the Securities and Exchange Commission and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

**Section 210. Sale of Bonds.** The sale of the Bonds to the Purchaser at a purchase price of \$10,215,000, plus accrued interest to the date of delivery, is hereby ratified and confirmed. Delivery of the Bonds shall be made to the Purchaser as soon as practicable after the adoption of this Ordinance, upon payment therefor in accordance with the terms of sale.

**Section 211. Securities Depository.**

(a) For purposes of this **Section 211**, the following terms shall have the following meanings:

"Beneficial Owner" means, whenever used with respect to a Bond, the person in whose name such Bond is recorded as the beneficial owner of such Bond by a Participant on the records of such Participant, or such person's subrogee.

"Cede & Co." means Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Bonds.

"DTC" means The Depository Trust Company of New York, New York.

"Participant" means any broker-dealer, bank or other financial institution for which DTC holds Bonds as securities depository.

"Representation Letter" means the representation letters from the City and the Paying Agent to DTC with respect to the Bonds.

(b) The Bonds shall be initially issued as one single authenticated fully registered bond for each Stated Maturity. Upon initial issuance, the ownership of such Bonds shall be registered in the City's Bond Register kept by the Paying Agent in the name of Cede & Co., as nominee of DTC. The Paying Agent and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Registered Owners of Bonds under this Ordinance, registering the transfer of Bonds, and for all other purposes whatsoever; and neither the Paying Agent nor the City shall be affected by any notice to the contrary. Neither the Paying Agent nor the City shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other person which is not shown on the Bond Register kept by the Paying Agent as being a Registered Owner of any Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Bonds, with respect to any notice which is permitted or required to be given to Owners of Bonds under this Ordinance, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds, or with respect to any consent given or other action taken by DTC as Registered Owner of the Bonds. The Paying Agent shall pay all principal of and interest on the Bonds only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Paying Agent of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Bonds will be transferable to such new nominee in accordance with paragraph (f) hereof.

(c) If the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain bonds, the City may notify DTC and the Paying Agent, whereupon DTC shall notify the Participants of the availability through DTC of bonds. In such event, the Bonds will be transferable in accordance with paragraph (f) hereof. DTC may determine to discontinue providing its services with

respect to the Bonds at any time by giving notice to the City and the Paying Agent and discharging its responsibilities with respect thereto under applicable law. In such event the Bonds will be transferable in accordance with paragraph (f) hereof.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the Representation Letter.

(e) The execution and delivery of the Representation Letter to DTC by the Mayor in the form presented to the City Council with such changes, omissions, insertions and revisions as the Mayor shall deem advisable, is hereby authorized, and execution of the Representation Letter by the Mayor shall be conclusive evidence of such approval. The Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by Registered Owners of the Bonds and Beneficial Owners and payments on the Bonds. The Paying Agent shall have the same rights with respect to its actions thereunder as it has with respect to its actions under this Ordinance.

(f) If any transfer or exchange of Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Paying Agent from the Registered Owners thereof of the Bonds to be transferred or exchange and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this Ordinance. If bonds are issued to holders other than Cede & Co., its successor as nominee for DTC as holder of all the Bonds, or other securities depository as holder of all the Bonds, the provisions of this Ordinance shall also apply to all matters relating thereto, including, without limitation, the printing of such bonds and the method of payment of principal of and interest on such bonds.

**Section 212. Authorization of Escrow Agreement.** The City is hereby authorized to enter into the Escrow Agreement in substantially the form attached to this Ordinance and marked **Exhibit C**, and the Mayor and City Clerk are hereby authorized and directed to execute the Escrow Agreement with such changes therein as such officials may deem appropriate, for and on behalf of and as the act and deed of the City. The Escrow Agent is hereby authorized to carry out, on behalf of the City, the duties, terms and provisions of the Escrow Agreement, and the Escrow Agent, the Purchaser and Bond Counsel are authorized to take all necessary actions for the subscription and purchase of the Escrowed Securities described therein, including the subscription for United States Treasury Securities - State and Local Government Series.

### ARTICLE III

#### REDEMPTION OF BONDS

**Section 301. Optional Redemption of Bonds.** At the option of the City, Bonds or portions thereof maturing on February 15, 2009, and thereafter may be called for redemption and payment prior to their Stated Maturity on February 15, 2008, and thereafter as a whole at any time or in part on any Interest Payment Date at the Redemption Price of 100% of the principal amount thereof plus accrued interest thereon to the Redemption Date.

**Section 302. Selection of Bonds to Be Redeemed.**

(a) The Paying Agent shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Paying Agent at least 45 days prior to the Redemption Date of the City's written instructions specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. If the Bonds are refunded more than 90 days in advance of such Redemption Date, any escrow agreement entered into by the City in connection with such refunding shall provide that such written instructions to the Paying Agent shall be given by the escrow agent on the City's behalf not more than 90 days prior to the Redemption Date. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in **Section 303** are met.

(b) Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof. When less than all of the Outstanding Bonds are to be redeemed, such Bonds shall be redeemed in such order of their Stated Maturities as determined by the City, and Bonds of less than a full Stated Maturity shall be selected by the Paying Agent in \$5,000 units of principal amount in such equitable manner as the Paying Agent may determine.

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

**Section 303. Notice and Effect of Call for Redemption.** Unless waived by any Registered Owner of Bonds to be redeemed, official notice of any redemption shall be given by the Paying Agent on the City's behalf by mailing a copy of an official redemption notice by first class mail at least 30 days but not more than 60 days prior to the Redemption Date to the State Auditor of Missouri, the Purchaser of the Bonds and each Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register.

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

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;

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

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

The failure of any Registered Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

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

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the City defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, the Paying Agent shall prepare for the Registered Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

The failure of any Registered Owner to receive the foregoing notice or any defect therein shall not invalidate the effectiveness of the call for redemption.

In addition to the foregoing notice, further notice shall be given by the Paying Agent on the City's behalf as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed.

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (1) the CUSIP numbers of all Bonds being redeemed; (2) the date of issue of the Bonds as originally issued; (3) the rate of interest borne by each Bond being redeemed; (4) the maturity date of each Bond being redeemed; and (5) any other descriptive information needed to identify accurately the Bonds being redeemed.

(b) Each further notice of redemption shall be sent at least one day before the mailing of notice to Registered Owners by first class, registered or certified mail or overnight delivery, as determined by the Paying Agent, to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) Each check or other transfer of funds issued for the payment of the Redemption Price of Bonds being redeemed shall bear or have enclosed the CUSIP number of the Bonds being redeemed with the proceeds of such check or other transfer.

The Paying Agent is also directed to comply with any mandatory or voluntary standards then in effect for processing redemptions of municipal securities established by the Securities and Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

#### ARTICLE IV

##### SECURITY FOR AND PAYMENT OF BONDS

**Section 401. Security for the Bonds.** The Bonds shall be general obligations of the City payable from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the City's territorial limits. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

**Section 402. Levy and Collection of Annual Tax.** For the purpose of providing for the payment of the principal of and interest on the Bonds as the same become due, there is hereby levied upon all of the taxable tangible property within the City a direct annual tax sufficient to produce the amounts necessary for the payment of such principal and interest as the same becomes due and payable in each year.

The taxes referred to above shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the City's other ad valorem taxes are levied and collected. The proceeds derived from said taxes shall be deposited in the Debt Service Fund, shall be kept separate and apart from all other funds of the City and shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the City's Director of Finance and Administration is hereby authorized and directed to pay said principal or interest out of the City's general funds and to reimburse said general funds for money so expended when said taxes are collected.

#### ARTICLE V

##### ESTABLISHMENT OF FUNDS; DEPOSIT AND APPLICATION OF MONEY

**Section 501. Establishment of Funds.** There have been or shall be established in the City's treasury and shall be held and administered by the City's Director of Finance the following separate funds:

(a) Debt Service Fund.

- (b) Rebate Fund.
- (c) Costs of Issuance Fund.

In addition to the funds described above, the Escrow Agreement establishes the Escrow Fund to be held and administered by the Escrow Agent in accordance with the provisions of the Escrow Agreement.

**Section 502. Deposit of Bond Proceeds and Other Money.** The net proceeds received from the sale of the Bonds and other money of the City in the amount determined as follows shall be deposited simultaneously with the delivery of the Bonds as follows:

(a) All accrued interest, if any, received from the sale of the Bonds shall be deposited in the Debt Service Fund and applied in accordance with **Section 503** hereof.

(b) From the proceeds of the Bonds there shall be deposited in the Cost of Issuance Fund and disbursed by the City's Director of Finance and Administration on orders of the City Council an amount necessary to pay costs of issuing the Bonds, including the fees of attorneys, financial consultants, accountants, rating agencies, printers and others employed to render professional services and other costs, fees and expenses incurred in connection with the issuance of the Bonds and the creation of the trust described in and created by the Escrow Agreement and in carrying out the duties, terms and provisions of the Escrow Agreement. Any of such money not used for such purpose and remaining on deposit on November 1, 1998, shall be transferred to and deposited in the Debt Service Fund.

(c) The remaining proceeds derived from the sale of the Bonds together with other money of the City on hand and available for such purpose which, together with the earnings to accrue on all of such money, will be sufficient for the payment of the principal of and interest on the Series 1995 Bonds, as determined and certified in accordance with **Section 509** hereof, shall be transferred to the Escrow Agent and deposited in the Escrow Fund and applied in accordance with **Section 508** hereof and the Escrow Agreement.

**Section 503. Application of Money in Debt Service Fund.** All amounts paid and credited to the Debt Service Fund shall be expended and used by the City for the sole purpose of paying the principal or Redemption Price of and interest on the Bonds as and when the same become due and the usual and customary fees and expenses of the Paying Agent. The City's Director of Finance and Administration is authorized and directed to withdraw from the Debt Service Fund sums sufficient to pay both principal or Redemption Price of and interest on the Bonds and the fees and expenses of the Paying Agent as and when the same become due, and to forward such sums to the Paying Agent in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Paying Agent will become due. If, through the lapse of time or otherwise, the Registered Owners of Bonds are no longer entitled to enforce payment of the Bonds or the interest thereon, the Paying Agent shall return said funds to the City. All money deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance and shall be held in trust by the Paying Agent for the benefit of the Registered Owners of the Bonds entitled to payment from such money.



Any money or investments remaining in the Debt Service Fund after the retirement of the indebtedness for which the Bonds were issued and all other indebtedness of the City shall be transferred and paid into the City's general fund.

**Section 504. Application of Money in the Rebate Fund.**

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Arbitrage Instructions. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the Rebate Amount (as defined in the Arbitrage Instructions), for payment to the United States of America, and neither the City nor the Registered Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Arbitrage Instructions.

(b) The City shall periodically determine the amount of arbitrage rebate under Section 148(f) of the Code in accordance with the Arbitrage Instructions, and the City shall make payments to the United States of America at the times and in the amounts determined under the Arbitrage Instructions. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be released to the City.

(c) Notwithstanding any other provision of this Ordinance, including in particular **Article VII** hereof, the obligation to pay arbitrage rebate to the United States and to comply with all other requirements of this Section and the Arbitrage Instructions shall survive the defeasance or payment in full of the Bonds.

**Section 505. Deposits and Investment of Money.** Except with respect to the Escrow Fund, money in each of the funds created by and referred to in this Ordinance shall be deposited in a bank or banks or other legally permitted financial institutions located in the State of Missouri that are members of the Federal Deposit Insurance Corporation. All such deposits, except with respect to the Escrow Fund, shall be continuously and adequately secured by the financial institutions holding such deposits as provided by the laws of the State of Missouri. All money held in the funds created by this Ordinance shall be kept separate and apart from all other funds of the City so that there shall be no commingling of such funds with any other funds of the City.

Except with respect to the Escrow Fund, money held in any fund referred to in this Ordinance may be invested by the City's Director of Finance and Administration at the direction of the City Council, in accordance with this Ordinance and the Arbitrage Instructions, in Permitted Investments; provided, however, that no such investment may be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any fund shall accrue to and become a part of such fund.

**Section 506. Nonpresentment of Bonds.** If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the City to the Registered Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Ordinance or on, or with respect to, said Bond. If any Bond is not presented for payment within six years following the date when such Bond becomes due at

Maturity, the Paying Agent shall, without liability for interest thereon, repay to the City the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Registered Owner thereof shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the City shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

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

**Section 508. Application of Money in the Escrow Fund.** Under the Escrow Agreement, the Escrow Agent will apply money in the Escrow Fund to purchase the Escrowed Securities and to establish an initial cash balance in accordance with the Escrow Agreement. The cash and Escrowed Securities held in the Escrow Fund will be applied by the Escrow Agent solely to the payment of the principal of, redemption premium, if any, and interest on the Series 1995 Bonds. All money deposited with the Escrow Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in the Series 1995 Bond Ordinance and the Escrow Agreement.

**Section 509. Verification of Certified Public Accountant; Discharge of Series 1995 Bonds.** Prior to or concurrently with the issuance and delivery of the Bonds and the creation of the escrow provided for herein, the City shall obtain the certification of an independent certified public accountant that such accountant has verified the accuracy of the calculations that demonstrate that the money and obligations required to be deposited with the Escrow Agent pursuant to **Section 502** hereof and the Escrow Agreement, together with the earnings to accrue thereon, will be sufficient for the timely payment of the principal of, redemption premium, if any, and interest on the Series 1995 Bonds as and when the same become due.

**Section 510. Redemption of Series 1995 Bonds.** The outstanding Series 1995 Bonds, becoming due on February 15 in the years 2006 through 2015, in the aggregate the principal amount of \$7,205,000, are hereby called for redemption and payment prior to maturity on February 15, 2005. The Series 1995 Bonds shall be redeemed at the office of BNY Trust Company of Missouri (as successor to Mark Twain Bank), the paying agent for the Series 1995 Bonds, on said redemption date by the payment of the principal thereof, together with the redemption premium and accrued interest thereon to the redemption date. In accordance with the requirements of the Series 1995 Bond Ordinance, the City Clerk is hereby directed to cause notice of the call for redemption and payment of the Series 1995 Bonds to be given in the manner provided in the Series 1995 Bond Ordinance. The officers of the City and the paying agent for the Series 1995 Bonds are hereby authorized and directed to take such other action as may be necessary in order to effect the redemption and payment of the Series 1995 Bonds as herein provided.

## ARTICLE VI

### REMEDIES

**Section 601. Remedies.** The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Registered Owners of the Bonds, and the Registered Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Registered Owners of Bonds similarly situated:

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

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

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

**Section 602. Limitation on Rights of Registered Owners.** The covenants and agreements of the City contained herein and in the Bonds shall be for the equal benefit, protection and security of the legal owners of any or all of the Bonds. All of the Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, or date of Maturity or right of prior redemption as provided in this Ordinance. No one or more Registered Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Registered Owners of such Outstanding Bonds.

**Section 603. Remedies Cumulative.** No remedy conferred herein upon the Registered Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Registered Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies consequent thereon. No delay or omission of any Registered Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Registered Owners of the Bonds by this Ordinance may be enforced and exercised from time to time and as often as may be deemed expedient. If any suit, action or proceedings taken by any Registered Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to such Registered Owner, then, and in every such case, the City and the Registered Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Registered Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

## ARTICLE VII

### DEFEASANCE

**Section 701. Defeasance.** When any or all of the Bonds have been paid and discharged, then the requirements contained in this Ordinance and the pledge of the City's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Bonds so paid and discharged. Bonds shall be deemed to have been paid and discharged within the meaning of this Ordinance if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State of Missouri and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of said Bonds and interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments; provided, however, that if any such Bonds are to be redeemed prior to their Stated Maturity, (1) the City has elected to redeem such Bonds, and (2) either notice of such redemption has been given, or the City has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Paying Agent to give such notice of redemption in compliance with **Section 302(a)** hereof. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the City, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Registered Owners of the Bonds, and such money shall be and is hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or other bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Ordinance.

## ARTICLE VIII

### MISCELLANEOUS PROVISIONS

#### **Section 801. Tax Covenants.**

(a) The City covenants and agrees that (1) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from federal gross income of the interest on the Bonds, and (2) it will not use or permit the use of any proceeds of Bonds or any other funds of the City, nor take or permit any other action, or fail to take any action, which would adversely affect the exclusion from federal gross income of the interest on the Bonds. The City will also adopt such other ordinances and take such other actions as may be necessary to comply with the Code and with other applicable future law, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

(b) The City covenants and agrees that (1) it will use the proceeds of the Bonds as soon as practicable and with all reasonable dispatch for the purposes for which the Bonds are issued, and (2) it will not invest or directly or indirectly use or permit the use of any proceeds of the Bonds or any other

funds of the City in any manner, or take or omit to take any action, that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code.

(c) The City covenants and agrees that it will pay or provide for the payment from time to time of all rebatable arbitrage to the United States pursuant to Section 148(f) of the Code and the Arbitrage Instructions. This covenant shall survive payment in full or defeasance of the Bonds. The Arbitrage Instructions may be amended or replaced if, in the opinion of Bond Counsel nationally recognized on the subject of municipal bonds, such amendment or replacement will not adversely affect the exclusion from federal gross income of the interest on the Bonds.

(d) The City covenants and agrees that it will not use any portion of the proceeds of the Bonds, including any investment income earned on such proceeds, directly or indirectly, (1) in a manner that would cause any Bond to be a "private activity bond" within the meaning of Section 141(a) of the Code, or (2) to make or finance a loan to any Person.

(e) The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to **Article VII** hereof or any other provisions of this Ordinance, until the final maturity date of all Bonds Outstanding.

**Section 802. Annual Audit.** Annually, promptly after the end of the fiscal year, the City will cause an audit to be made of its funds and accounts for the preceding fiscal year by an independent certified public accountant or firm of independent certified public accountants.

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

As soon as possible after the completion of the annual audit, the governing body of the City shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Ordinance, the City shall promptly cure such deficiency.

A copy of each annual audit will be mailed to the Purchaser and, upon payment of the reasonable cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Bondholder or prospective Bondholder.

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

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the City is required to pay as principal of or interest on any Bond;

- (c) permit preference or priority of any Bond over any other Bond; or
- (d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Ordinance.

Any provision of the Bonds or of this Ordinance may, however, be amended or modified by ordinance duly adopted by the governing body of the City at any time in any legal respect with the written consent of the Registered Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Registered Owners, the City may amend or supplement this Ordinance for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or in connection with any other change therein which is not materially adverse to the interests of the Registered Owners.

Every amendment or modification of the provisions of the Bonds or of this Ordinance, to which the written consent of the Registered Owners is given, as above provided, shall be expressed in an ordinance adopted by the governing body of the City amending or supplementing the provisions of this Ordinance and shall be deemed to be a part of this Ordinance. A certified copy of every such amendatory or supplemental ordinance, if any, and a certified copy of this Ordinance shall always be kept on file in the office of the City Clerk, and shall be made available for inspection by the Registered Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Ordinance, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance or of this Ordinance will be sent by the City Clerk to any such Registered Owner or prospective Registered Owner.

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

The City shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Ordinance which affects the duties or obligations of the Paying Agent under this Ordinance.

**Section 804. Notices, Consents and Other Instruments by Registered Owners.** Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Registered Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Registered Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, other than the assignment of the ownership of a Bond, if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the City and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

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

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

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

**Section 805. Continuing Disclosure.** The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate executed by the City and dated the date of issuance and delivery of the Bonds (in substantially the form attached hereto as **Exhibit D**), as originally executed and as it may be amended from time to time in accordance with the terms thereof. Upon the City's failure to comply with the Continuing Disclosure Certificate, any Registered Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section.

**Section 806. Further Authority.** The City's officers, including the Mayor and City Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

**Section 807. Parties Interested Herein.** Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Paying Agent and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation thereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Paying Agent and the Registered Owners of the Bonds.

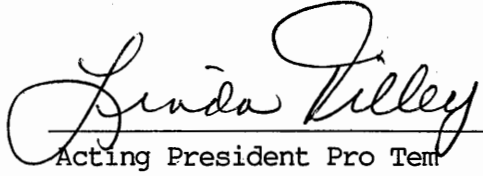
**Section 808. Severability.** If any section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

**Section 809. Governing Law.** This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

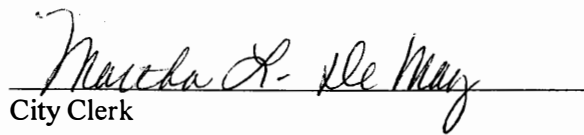
**Section 810. Effective Date.** This Ordinance shall take effect and be in full force from and after its passage by the City Council and approval by the Mayor.

**PASSED** by the City Council of the City of Chesterfield, Missouri, this 5th day of May, 1998.

[SEAL]

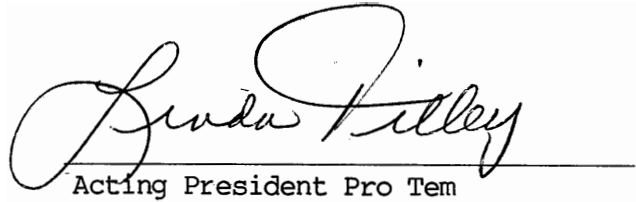
  
Acting President Pro Tem

ATTEST:

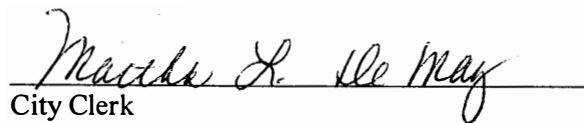
  
City Clerk

**APPROVED** by the Mayor this 5th day of May, 1998.

[SEAL]

  
Acting President Pro Tem

ATTEST:

  
City Clerk



**EXHIBIT A  
TO ORDINANCE**

**(FORM OF BONDS)**

**EXCEPT AS OTHERWISE PROVIDED IN THE ORDINANCE (DESCRIBED HEREIN), THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY (DESCRIBED HEREIN) OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.**

**UNITED STATES OF AMERICA  
STATE OF MISSOURI**

**Registered  
No. \_\_\_\_\_**

**Registered  
\$ \_\_\_\_\_**

**CITY OF CHESTERFIELD, MISSOURI**

**GENERAL OBLIGATION REFUNDING BOND**

**SERIES 1998**

**Interest Rate**

**Maturity Date**

**Dated Date**

**CUSIP Number**

**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:**

**DOLLARS**

**THE CITY OF CHESTERFIELD, MISSOURI**, a city of the third class and political subdivision of the State of Missouri (the "City"), for value received, hereby acknowledges itself to be indebted and promises to pay to the registered owner shown above, or registered assigns, the principal amount shown above on the maturity date shown above unless called for redemption prior to said maturity date, and to pay interest thereon at the interest rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months) from the Dated Date shown above or from the most recent interest payment date to which interest has been paid or duly provided for, payable semiannually on February 15 and August 15 in each year, beginning on August 15, 1998, until said principal amount has been paid.

The principal or redemption price of this Bond shall be paid at maturity or upon earlier redemption by check or draft to the person in whose name this Bond is registered at the maturity or redemption date thereof, upon presentation and surrender of this Bond at the payment office of UMB Bank of St. Louis, N.A. (the "Paying Agent") in Kansas City, Missouri. The interest payable on this Bond on any interest payment date shall be paid to the person in whose name this Bond is registered on the registration books maintained by the Paying Agent at the close of business on the Record Date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding the interest payment date. Such interest shall be payable (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register or (b) in the case of an interest payment to any Registered Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Registered Owner upon written notice given to the Paying Agent by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the name and address of the bank (which shall be in the continental United States), its ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. The principal or redemption price of and interest on the Bonds shall be payable by check or draft in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

This Bond is one of an authorized series of bonds of the City designated "General Obligation Refunding Bonds, Series 1998," aggregating the principal amount of \$10,215,000 (the "Bonds"), issued by the City for the purpose of refunding the City's General Obligation Bonds, Series 1995 (the "Series 1995 Bonds"), in the outstanding principal amount of \$10,140,000, and paying the costs of issuance of the Bonds, under the authority of and in full compliance with the constitution and laws of the State of Missouri, and pursuant an ordinance duly passed (the "Ordinance") and proceedings duly and legally had by the governing body of the City.

At the option of the City, Bonds or portions thereof maturing on February 15, 2009, and thereafter may be redeemed and paid prior to maturity on February 15, 2008, and thereafter as a whole at any time or in part in such order of maturity determined by the City on any interest payment date (Bonds of less than a full maturity to be selected in multiples of \$5,000 principal amount in such equitable manner as the Paying Agent shall designate) at the redemption price of 100% of the principal amount thereof plus accrued interest thereon to the redemption date.

Notice of redemption, unless waived, is to be given by the Paying Agent by mailing an official redemption notice by first class mail at least 30 days prior to the redemption date to the State Auditor of Missouri, the original purchaser of the Bonds and each registered owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register maintained by the Paying Agent. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City defaults in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

The Bonds constitute general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the City's territorial limits. The full faith, credit and resources of the City are irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One Bond certificate with respect to each date on which the Bonds are stated to mature, registered in the nominee name of the Securities Depository, is being issued and required to be delivered to the Securities Depository and immobilized in its custody or its agents. The book-entry system will evidence positions held in the Bonds by the Securities Depository's participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants. The Paying Agent and the City will recognize the Securities Depository nominee, while the Registered Owner of this Bond, as the owner of this Bond for all purposes, including (i) payments of principal of, redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting. Transfers of principal, interest and any redemption premium payments to participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The Paying Agent and the City will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal or redemption price and interest on this Bond shall be made in accordance with existing arrangements between the Paying Agent and the City.

EXCEPT AS OTHERWISE PROVIDED IN THE ORDINANCE, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.

This Bond may be transferred or exchanged, as provided in the Ordinance, only on the Bond Register kept for that purpose at the payment office of the Paying Agent, upon surrender of this Bond together with a written instrument of transfer or authorization for exchange satisfactory to the Paying Agent duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any authorized denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Ordinance and upon payment of the charges therein prescribed. The City and the Paying Agent may deem and treat the person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal, redemption premium, if any, and interest due hereon and for all other purposes.

The proceedings relating to the issuance of the Bonds have been presented to and filed with the State Auditor of Missouri, who has examined the same and has issued a certificate that such proceedings comply with the laws of the State of Missouri and that the conditions of the contract under which the Bonds were ordered to be issued have been complied with.

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

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

Missouri; that a direct annual tax upon all taxable tangible property situated in the City has been levied for the purpose of paying the principal of and interest on the Bonds when due; and that the total indebtedness of the City, including this Bond and the series of which it is one, does not exceed any constitutional or statutory limitation.

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

**CERTIFICATE OF AUTHENTICATION**

**CITY OF CHESTERFIELD, MISSOURI**

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

By: \_\_\_\_\_  
Mayor

Registration Date: \_\_\_\_\_

**UMB BANK OF ST. LOUIS, N.A.,**  
Paying Agent

(Seal)

ATTEST:

By \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
City Clerk

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**LEGAL OPINION**

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

GILMORE & BELL  
A Professional Corporation  
One Metropolitan Square, Suite 2350  
211 North Broadway  
St. Louis, Missouri 63102

(LEGAL OPINION OF BOND COUNSEL)

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**EXHIBIT B  
TO ORDINANCE**

**PRELIMINARY OFFICIAL STATEMENT**

[On file in the Office of the City Clerk.]

**EXHIBIT D  
TO ORDINANCE**

**CONTINUING DISCLOSURE CERTIFICATE**

[On file in the Office of the City Clerk.]

**CERTIFICATE**

I, the undersigned, hereby certify that the above and foregoing is a true and correct copy of the Ordinance of the City of Chesterfield, Missouri, adopted by the City Council on May 5, 1998, authorizing the issuance of \$10,215,000 principal amount of General Obligation Refunding Bonds, Series 1998, as the same appears of record in my office, and that said Ordinance has not been modified, amended or repealed and is in full force and effect as of this date.

DATED: May 19, 1998.

(Seal)

\_\_\_\_\_  
City Clerk of the City of Chesterfield, Missouri