

Bill No. 0116-05

ORDINANCE NO. 51.09

AN ORDINANCE APPROVING THE EXECUTION AND DELIVERY OF \$945,054 PRINCIPAL AMOUNT OF CERTIFICATES OF PARTICIPATION, SERIES 2016A (WASTE WATER TREATMENT FACILITY PROJECT) (HAWK POINT, MISSOURI, LESSEE) FOR THE PURPOSE OF PROVIDING FUNDS TO PAY OR REIMBURSE THE CITY FOR THE COSTS OF ACQUIRING, CONSTRUCTING, EQUIPING, IMPROVING AND MAINTAINING A WASTE WATER TREATMENT FACILITY, PERSONALTY AND FIXTURES RELATED THERETO AND RELATED SITE IMPROVEMENTS, LOCATED WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE CITY OF HAWK POINT, MISSOURI, AND TO PAY CERTAIN COSTS OF ISSUANCE; AUTHORIZING AND APPROVING A PURCHASE AGREEMENT RELATING TO SAID CERTIFICATES OF PARTICIPATION, AND AUTHORIZING AND APPROVING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF SAID CERTIFICATES OF PARTICIPATION.

WHEREAS, The City of Hawk Point, Missouri (the "City") is a fourth class City organized and existing under the Constitution and laws of the State of Missouri; and

WHEREAS, the Board of Aldermen of the City (the "Board of Aldermen") has the power to purchase, hold, lease, sell or otherwise dispose of any property, real or personal, it now owns or may hereafter acquire; and

WHEREAS, in order to carry out the essential governmental and proprietary functions of the City, the governing body of the City deems it necessary to refinance and refund the Certificates of Participation, Series 2014A which was used to acquire, construct, equip, improve, and maintain a waste water treatment facility within the City (the "Improvements"); and

WHEREAS, the Board of Aldermen of the City has heretofore found and determined and does now find and determine that it is desirable and in the best interests of the City and that it is within the authority of the City pursuant to the Constitution and laws of the State of Missouri that (i) the City convey to Peoples Bank & Trust Co., Troy, Missouri, as trustee (the "Trustee") under an Indenture of Trust dated May 16, 2016 (the "Indenture of Trust"), a leasehold interest in certain real property as described in the hereinafter described Leases (the "Real Property") and the improvements located thereon (the "Improvements," which together with the Real Property are hereinafter referred to as the "Project", (ii) the City approve the execution and delivery of the herein described Certificates of Participation for the purpose of refinancing and refunding the Certificates of Participation, Series 2014A which provided funds to pay or reimburse the City for the costs of acquiring, constructing, installing and equipping said Project and to pay costs of issuance associated therewith, and (iii) the City lease the Project from the Trustee upon the terms and conditions set forth in the Lease Purchase Agreement dated as of May 16, 2016 between the Trustee and the City; and

WHEREAS, in order to provide for the foregoing, the Board of Aldermen does hereby find and determine that it is desirable and in the best interests of the City and that it is within the authority of the City pursuant to the Constitution and laws of the State of Missouri that:

- (i) the City convey to Peoples Bank & Trust Co., as trustee (the "Trustee") under a Base Lease (the "Base Lease"), a leasehold interest in the Project;

- (ii) the City lease the Project from the Trustee upon the terms and conditions set forth in the annually-renewable Lease Purchase Agreement in consideration of rent payments equal to the payments of principal and interest due and owing on the hereinafter described Certificates; and
- (iii) the City approve pursuant to an Indenture of Trust the execution and delivery by the Trustee of the Certificates of Participation, Series 2016A (Waste Water Treatment Facility Project) (City of Hawk Point, Missouri, Lessee) in a principal amount not to exceed \$945,054 (the "*Series 2016A Certificates*");

WHEREAS, the City's obligation to pay Rent Payments (as defined in the Lease Purchase Agreement hereinafter referred to as the "*Lease*") under the Lease shall be from year to year only, shall constitute currently budgeted expenditures of the City, and shall not constitute a general obligation or other indebtedness of the City in any ensuing fiscal year beyond the then current fiscal year; and

WHEREAS, the Board of Aldermen hereby determines that the transactions described in the foregoing recitals are in the best interests of the City and the health, safety, morals and welfare of its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HAWK POINT, MISSOURI, AS FOLLOWS:

Section 2. Approval of Execution and Delivery of the Certificates of Participation by the Trustee. The City hereby approves the execution, delivery and sale by the Trustee of the Certificates of Participation, Series 2016A (City of Hawk Point, Missouri, Lessee), in an aggregate principal amount not to exceed \$945,054 (the "*2016A Certificates*") for the purpose of refinancing and refunding the Certificates of Participation, Series 2014A which provided funds to pay costs of the Project and to pay the costs of issuance of the 2014A Certificates. The Certificates shall be executed, delivered and secured pursuant to the herein approved Indenture of Trust and shall bear such dates, shall mature at such times and in the amounts, shall be in such denominations, shall bear interest at such rates, shall be in such forms, shall be subject to redemption, shall be entitled to a proportionate share of Rent Payments (as defined in the Indenture of Trust), shall have such other terms and provisions, and shall be executed, authenticated and delivered in such manner and subject to such provisions, covenants and agreements, as are or shall be set forth in the Indenture of Trust.

The Certificates shall be sold to the Purchaser (hereinafter defined) at the price set forth in the Purchase Agreement (hereinafter defined), which shall be not less than 100.0% of the principal amount of the Certificates.

The Rent Payments and the Interest Portion (as defined in the Indenture of Trust) thereof shall be as are or shall be set forth in the Lease.

Section 3. Authorization of Documents. The City is hereby authorized to enter into the following documents (collectively, the "*City Documents*"), in substantially the forms reviewed by the Board of Aldermen prior to and at the meeting approving this Ordinance (copies of which documents shall be filed in the records of the City), with such changes therein as shall be approved by the officers of the City executing such documents and as may be necessary or desirable to carry out and comply with the intent of this Ordinance, such officers' signatures thereon being conclusive evidence of their approval thereof:

- (a) Indenture of Trust (the "*Indenture of Trust*"), by and between the City and the Trustee, pursuant to which the Certificates shall be executed and delivered by the Trustee and the proceeds of the Certificates will be provided to pay the costs of the Project and to pay costs of issuance;
- (b) Base Lease (the "*Base Lease*"), by and between the City and the Trustee, pursuant to which the City shall lease the Project to the Trustee;
- (c) Lease Purchase Agreement (the "*Lease*"), by and between the City and the Trustee, under which the Trustee shall lease its interest in the Project to the City upon the terms and conditions as set forth in said Lease; and
- (d) Purchase Agreement (the "*Purchase Agreement*"), by and among the City, the Trustee, and Peoples Bank & Trust Co. (the "*Purchaser*"), pursuant to which the parties provide for the purchase of the Certificates by the Purchaser.

Section 4. Execution of Documents. The City is hereby authorized to enter into and the Mayor and/or the City Clerk are hereby authorized and directed to execute, seal, attest and deliver, for and on behalf of and as the act and deed of the City, the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 5. Further Authority. The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action, and execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry out, comply with and perform the duties of the City with respect to the City Documents.

Section 6. Designation of Trustee, Paying Agent, and Certificate Registrar. The City hereby approves and designates Peoples Bank & Trust Co., as Trustee, Paying Agent and Certificate Registrar under the Indenture of Trust.

Section 7. Acceptance of Trustee's Interest in the Project when Certificates of Participation are Paid. The City hereby declares that the City will accept from the Trustee all of the Trustee's right, title and interest in and to the Project after all the Rent Payments under the respective Lease Purchase Agreements and represented by the Certificates have been paid or payment therefor has been provided for in accordance with the herein approved Lease Purchase Agreements and the Indenture of Trust.

Section 8. Designation as Qualified Tax-Exempt Obligations. The City hereby designates the Lease and the Certificates as "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. The officers of the City are authorized to execute appropriate certificates in connection therewith.

Section 9. Further Authorization. The Mayor and/or City Clerk are hereby authorized and directed to execute and deliver for and on behalf of the City, and the City Clerk is hereby authorized and directed where appropriate to attest, all certificates, documents, agreements or other instruments, and the City Clerk or his or her designated representative is hereby authorized and directed to take any and all actions, as may be necessary, desirable, convenient or proper to carry out and comply with the provisions of the City Documents and all other agreements or contracts, necessary or reasonably incidental to the

implementation of this Ordinance (including, without limiting the generality of the foregoing, any closing certificate in connection with the issuance of the Certificates).

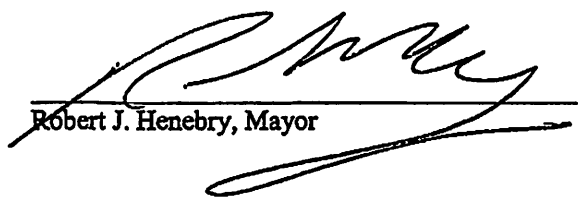
Section 10. Severability. The sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of the Ordinance are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City has enacted the valid portions without the void ones, or unless the court finds that the valid portions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 11. Governing Law. This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 12. Effective Date. This Ordinance shall take effect and be in full force immediately after its adoption by the City.

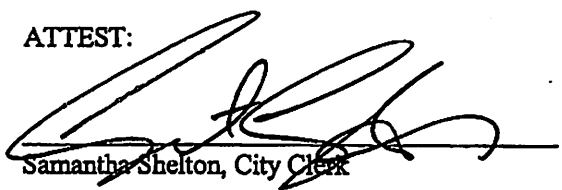
(The rest of this page is intentionally left blank.)

PASSED AND ADOPTED THIS 19th DAY OF June, 2016.


Robert J. Henebry, Mayor

(Seal)

ATTEST:


Samantha Shelton, City Clerk

The undersigned, the City Clerk of The City of Hawk Point, Missouri (the "City"), hereby certifies that the above and foregoing is a true and correct copy of the Ordinance adopted by the City on June 16th, 2016, and that said Ordinance has not been modified, amended or repealed and that the same remains in full force and effect as of the date hereof.

WITNESS my hand and seal of the City as of the 16th day of June, 2016.


Samantha Shelton, City Clerk