

1 **BILL NO. S-12-10-09**

2 **SPECIAL ORDINANCE NO. S-__-__**

3
4 An Ordinance concerning the refunding by the City of Fort
5 Wayne of certain outstanding sewage works revenue bonds;
6 authorizing the issuance of sewage works refunding revenue
7 bonds for such purpose; providing for the collection,
8 segregation and distribution of the revenues of the sewage
9 works and the safeguarding of the interests of the owners of the
10 sewage works refunding revenue bonds authorized herein;
11 other matters connected therewith; and repealing ordinances
12 inconsistent herewith

13
14 WHEREAS, the City of Fort Wayne, Indiana ("City") owns and operates a
15 sewage works by and through its Board of Public Works ("Board") for the collection
16 and treatment of sewage and other wastes ("Sewage Works"), pursuant to the
17 provisions of Indiana Code 36-9-23, as in effect on the date of delivery of the bonds
18 authorized herein; and

19
20 WHEREAS, the Board has determined and recommended to the Common
21 Council of the City ("Common Council") that certain hereinafter described
22 outstanding bonds of the Sewage Works should be refunded to obtain a reduction in
23 interest payments to effect a savings to the City; that the refunding of said
24 outstanding bonds, together with accrued interest thereon and including all costs
25 related to the refunding cannot be provided for out of funds of the Sewage Works
26 now on hand and the refunding should be accomplished by the issuance of revenue
27 bonds of the Sewage Works, in one or more series; and

28
29 WHEREAS, pursuant to Ordinance No. S-01-02-23 adopted by the Common
30 Council on January 8, 2002, as amended by Ordinance No. S-02-04-13, adopted by
the Common Council on May 14, 2002 (collectively, "2002 Bond Ordinance"), the

1 City heretofore issued two series of revenue bonds payable from the net revenues of
2 the Sewage Works with the first series designated as "Junior Sewage Works Revenue
3 Bonds, Series 2002 A" ("2002A Bonds") outstanding after August 1, 2012, in an
4 aggregate principal amount of \$15,107,351 bearing interest at the rate of four percent
5 (4.0%) per annum and maturing in various amounts annually on August 1 in the
6 years 2013 to 2023; and the second series of bonds designated as "Junior Sewage
7 Works Refunding and Improvement Revenue Bonds, Series 2002 B ("2002B
8 Bonds"), outstanding after August 1, 2012, in the amount of \$5,720,000 bearing
9 interest at various rates and maturing in various amounts annually on August 1 in the
10 years 2013 to 2017; and
11

12
13 WHEREAS, pursuant to Ordinance No. S-126-02 adopted by the Common
14 Council on October 22, 2002 ("2002C Bond Ordinance"), the City has heretofore
15 issued revenue bonds payable from the net revenues of the Sewage Works,
16 designated as "Sewage Works Junior Revenue Bonds, Series 2002C" ("2002C
17 Bonds"), outstanding after August 1, 2012, in the amount of \$2,295,000, bearing
18 interest at various rates and maturing in various amounts annually on August 1 in the
19 years 2013 to and including 2017; and
20

21 WHEREAS, pursuant to Ordinance No. S-44-03 adopted by the Common
22 Council on April 8, 2003 ("2003 Bond Ordinance"), the City has heretofore issued
23 revenue bonds payable from the net revenues of the Sewage Works, designated as
24 "Sewage Works Junior Revenue Bonds, Series 2003" ("2003 Bonds"), outstanding
25 after August 1, 2012, in the amount of \$5,690,000, bearing interest at various rates
26
27
28
29
30

1 and maturing in various amounts annually on August 1 in the years 2013 to and
2 including 2018; and

3 WHEREAS, pursuant to Ordinance No. S-129-05 adopted by the Common
4 Council on August 23, 2005 ("2005 Bond Ordinance), the City has heretofore issued
5 revenue bonds payable from the net revenues of the Sewage Works, designated as
6 "Sewage Works Revenue Bonds, Series 2005" ("2005 Bonds"), outstanding after
7 August 1, 2012, in the amount of \$28,675,000, bearing interest at the rate of 3.1%
8 per annum and maturing in various amounts annually on August 1 in the years 2013
9 to and including 2025; and
10

11 WHEREAS, pursuant to Ordinance No. 5-07-05-26 adopted by the Common
12 Council on June 12, 2007 ("2007 Bond Ordinance"), the City has heretofore issued
13 revenue bonds payable from the net revenues of the Sewage Works, designated as
14 "Sewage Works Revenue Bonds, Series 2007" ("2007 Bonds") outstanding after
15 August 1, 2012, in the amount of \$19,930,000, bearing interest at various rates and
16 maturing in various amounts annually on August 1 in the years 2013 to and including
17 2027; and
18

19 WHEREAS, pursuant to Ordinance No. S-65-09 adopted by the Common
20 Council on June 9, 2009 ("2009 Bond Ordinance"), the City has heretofore issued six
21 series of revenue bonds payable from the net revenues of the Sewage Works, with
22 the first series designated as "Sewage Works Revenue Bonds of 2009, Series A
23 ("2009A Bonds"), outstanding after August 1, 2012, in the amount of \$4,413,616,
24 bearing interest at the rate of 0.16% per annum and maturing in various amounts
25 annually on August 1 in the years 2013 to and including 2030; the second series of
26
27
28
29
30

1 bonds designated as "Sewage Works Revenue Bonds of 2009, Series B" ("2009B
2 Bonds"), outstanding after August 1, 2012, in the amount of \$27,129,399, bearing
3 interest at the rate of 4.16% per annum and maturing in various amounts annually on
4 August 1 in the years 2013 to and including 2030; the third series of bonds
5 designated as "Sewage Works Revenue Bonds of 2010" ("2010 Bonds"), outstanding
6 after August 1, 2012, in the amount of \$41,045,000, bearing interest at various rates
7 and maturing in various amounts annually on August 1 in the years 2013 to and
8 including 2030; the fourth series of bonds designated as "Sewage Works Revenue
9 Bonds of 2011, Series A" ("2011A Bonds"), outstanding after August 1, 2012, in the
10 amount of \$38,100,000, bearing interest at the rate of 2.80% per annum and
11 maturing in various amounts annually on August 1 in the years 2013 to and
12 including 2026; the fifth series of bonds designated as "Sewage Works Revenue
13 Bonds of 2011, Series B" ("2011B Bonds"), outstanding after August 1, 2012, in the
14 amount not to exceed \$33,576,000, bearing interest at the rate of 2.29% per annum
15 and maturing in various amounts annually on August 1 in the years 2013 to and
16 including 2031; and the sixth series of bonds designated as "Sewage Works Revenue
17 Bonds of 2012, Series A" ("2012A Bonds"), outstanding in the amount not to exceed
18 \$10,415,000, bearing interest at the rate of 1.78% per annum and maturing in
19 various amounts annually on August 1 in the years 2013 to and including 2032; and
20
21
22

23 WHEREAS, the 2002A Bonds, the 2002B Bonds, the 2002C Bonds, the 2003
24 Bonds, the 2005 Bonds, the 2007 Bonds, the 2009A Bonds, the 2009B Bonds, the
25 2010 Bonds, the 2011A Bonds, the 2011B Bonds and the 2012 Bonds are hereinafter
26 referred to as the "Prior Bonds;" and
27
28
29
30

1 amount not to exceed \$28,750,000 and to use the proceeds to refund the Refunded
2 Bonds and to pay for all costs related to the refunding and the issuance of the bonds
3 hereunder; and
4

5 WHEREAS, the ordinances authorizing the issuance of the 2005 Bonds, the
6 2007 Bonds, the 2009A Bonds, the 2009B Bonds, the 2010 Bonds, the 2011A
7 Bonds, the 2011B Bonds and the 2012 Bonds (collectively, "Outstanding Bonds")
8 permit the issuance of additional bonds ranking on a parity with the Outstanding
9 Bonds provided certain conditions can be met, and the City finds that the finances of
10 the Sewage Works will enable the City to meet the conditions for the issuance of
11 additional parity bonds and that, accordingly, the revenue bonds authorized herein
12 shall rank on a parity with the Outstanding Bonds; and
13

14 WHEREAS, the 2009 Bond Ordinance contains authority for the issuance of
15 additional revenue bonds ("Revenue Bonds") to finance the construction of certain
16 additions and improvements to the Sewage Works; the Revenue Bonds, when and if
17 issued, shall rank on a parity with the Outstanding Bonds and the hereinafter defined
18 Refunding Bonds and shall be a part of the definition of Outstanding Bonds; and
19

20 WHEREAS, the bonds to be issued pursuant to this ordinance shall constitute
21 a first charge against the Net Revenues of the Sewage Works, on a parity with the
22 Outstanding Bonds, and are to be issued subject to the provisions of the laws of the
23 hereinafter defined Act, and the terms and restrictions of this ordinance; and
24

25 WHEREAS, the Common Council now finds that all conditions precedent to
26 the adoption of an ordinance authorizing the issuance of revenue bonds have been
27
28
29
30

1 complied with in accordance with the provisions of IC 5-1-5 and IC 36-9-23, each as
2 in effect on the date of delivery of the bonds authorized herein (collectively, "Act");

3 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
4 OF THE CITY OF FORT WAYNE, INDIANA, THAT:
5

6 Section 1. Issuance of Refunding Bonds; Redemption of Refunded
7 Bonds. (a) The City, acting by and through the Board and as the owner and operator
8 of the Sewage Works for the collection and treatment of sewage and other wastes,
9 now hereby orders, authorizes and directs the Board to proceed with the refunding of
10 all or a portion of the Refunded Bonds thereby reducing its interest payments and
11 effecting a savings, as reported by the City's financial advisor, H.J. Umbaugh &
12 Associates, Certified Public Accountants, LLP. The terms "Sewage Works,"
13 "sewage works," "works" and words of like import where used in this ordinance shall
14 be construed to mean and include the Treatment Works, as defined in the Financial
15 Assistance Agreement, dated as of September 10, 2012 ("Financial Assistance
16 Agreement"), between the City and the Indiana Finance Authority ("Authority"), the
17 existing structures and property of the Sewage Works and all enlargements,
18 improvements, extensions and additions thereto, and replacements thereof.
19
20

21 (b) The City shall issue, in one or more series, its "Sewage Works
22 Refunding Revenue Bonds of _____," to be completed with the year of issuance and
23 appropriate series designation ("Refunding Bonds"), in an aggregate principal
24 amount not to exceed \$28,750,000 for the purpose of procuring funds to be applied
25 to the refunding of all or a portion of the Refunded Bonds, providing funds for the
26 hereinafter defined Reserve Accounts, the payment of costs of issuance and all other
27
28
29
30

1 costs related to the refunding. The City shall apply moneys currently held for the
2 payment of debt service on the Refunded Bonds to the refunding as provided in
3 Section 7.

4 Each series of Refunding Bonds shall be issued in denominations of \$5,000
5 each or integral multiples thereof, numbered consecutively from 1 upward, and dated
6 as of the first day of the month in which sold or delivered, or the date of delivery, as
7 determined by the Controller, with the advice of the City's financial advisor. Interest
8 on the Refunding Bonds shall be calculated on the basis of twelve (12) thirty (30)-
9 day months for a three hundred and sixty (360)-day year and shall be payable
10 semiannually on February 1 and August 1 in each year, beginning on the first
11 February 1 or the first August 1 after the date of issuance of the Bonds, as
12 determined by the Controller, with the advice of the City's financial advisor. The
13 Refunding Bonds shall be sold at a price not less than 99% of the par amount of the
14 Refunding Bonds and shall be payable in lawful money of the United States of
15 America, at the principal office of the Paying Agent (as hereinafter defined). Such
16 Refunding Bonds shall bear interest at a rate or rates not exceeding 4% per annum
17 (the exact rate or rates to be determined by negotiation or bidding) and shall mature
18 annually, or shall be subject to mandatory sinking fund redemption if term bonds are
19 issued, on August 1 of each year over a period ending no later than August 1, 2023
20 and in such amounts which will either achieve as level annual debt service as
21 practicable taking into account the Outstanding Bonds and all other series of
22 Refunding Bonds issued under this ordinance, or maximize the reduction in
23
24
25
26
27
28
29
30

1 combined annual debt service for target years as recommended by the City's
2 financial advisor.

3 All or a portion of the Refunding Bonds may be issued as one or more term
4 bonds, upon election of the Purchaser (as hereinafter defined) or successful bidder
5 for the Refunding Bonds. Such term bonds shall have a stated maturity or maturities
6 of August 1, in the years as determined by the Purchaser or successful bidder, but in
7 no event later than the last serial maturity date of the Refunding Bonds as determined
8 in accordance with the above paragraph. The term bonds shall be subject to
9 mandatory sinking fund redemption and final payment(s) at maturity at 100% of the
10 principal amount thereof, plus accrued interest to the redemption date, on principal
11 payment dates which are hereinafter determined in accordance with the above
12 paragraph.
13

14
15 Each series of Refunding Bonds shall rank on a parity with the other for all
16 purposes, including the pledge of Net Revenues under this ordinance.

17 Section 2. Registrar and Paying Agent; Book-Entry Provisions. The
18 Mayor and Controller are hereby authorized to contract with a qualified financial
19 institution to serve as Registrar and Paying Agent for the Refunding Bonds
20 ("Registrar" or "Paying Agent"). The Registrar is hereby charged with the
21 responsibility of authenticating the Refunding Bonds. The Controller is hereby
22 authorized to enter into such agreements or understandings with the Registrar as will
23 enable the institution to perform the services required of a registrar and paying agent.
24 The Controller is further authorized to pay such fees as the Registrar may charge for
25 the services it provides as Registrar and Paying Agent and such fees may be paid
26
27
28
29
30

1 from the Sewage Works Sinking Fund established to pay the principal of and interest
2 on the Refunding Bonds as fiscal agency charges. Upon agreement with the
3 Purchaser, the Controller may serve as Registrar and Paying Agent and, in that case,
4 shall be charged with all duties of Registrar and Paying Agent under this ordinance.
5

6 The principal of the Refunding Bonds shall be payable at the principal
7 corporate trust office of the Paying Agent. All payments of interest on the
8 Refunding Bonds shall be paid by check, mailed one business day prior to the
9 interest payment date to the registered owners thereof as the names appear as of the
10 fifteenth day of the month preceding the interest payment date ("Record Date") and
11 at the addresses as they appear on the registration books kept by the Registrar or at
12 such other address as is provided to the Paying Agent in writing by such registered
13 owner. If payment of principal or interest is made to a depository, payment shall be
14 made by wire transfer on the payment date in same-day funds. If the payment date
15 occurs on a date when financial institutions are not open for business, the wire
16 transfer shall be made on the next succeeding business day. The Paying Agent shall
17 be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such
18 payments are received at the depository by 2:30 p.m. (New York City time). All
19 payments on the Refunding Bonds shall be made in any coin or currency of the
20 United States of America, which on the date of such payment, shall be legal tender
21 for the payment of public and private debts.
22
23

24 Each Refunding Bond shall be transferable or exchangeable only upon the
25 books of the City kept for that purpose at the principal corporate trust office of the
26 Registrar by the registered owner in person, or by its attorney duly authorized in
27
28
29
30

1 writing, upon surrender of such Refunding Bond together with a written instrument
2 of transfer or exchange satisfactory to the Registrar duly executed by the registered
3 owner, or its attorney duly authorized in writing, and thereupon a new fully
4 registered Refunding Bond or Refunding Bonds in an authorized aggregate principal
5 amount and of the same maturity, shall be executed and delivered in the name of the
6 transferee or transferees or the registered owner, as the case may be, in exchange
7 therefor. The costs of such transfer or exchange shall be borne by the City. The
8 City, Registrar and Paying Agent for the Refunding Bonds may treat and consider
9 the person in whose name such Refunding Bonds are registered as the absolute
10 owner thereof for all purposes including for the purpose of receiving payment of, or
11 on account of, the principal thereof and interest due thereon.
12

13
14 The Registrar and Paying Agent may at any time resign as Registrar and
15 Paying Agent upon giving thirty (30) days' notice in writing to the City and by first
16 class mail to each registered owner of the Refunding Bonds then outstanding, and
17 such resignation will take effect at the end of such thirty (30) day period or upon the
18 earlier appointment of a successor registrar and paying agent by the City. Any such
19 notice to the City may be served personally or sent by registered mail. The Registrar
20 and Paying Agent may be removed at any time as Registrar and Paying Agent by the
21 City, in which event the City may appoint a successor registrar and paying agent.
22 The City shall notify each registered owner of the Refunding Bonds then outstanding
23 by first class mail of the removal of the Registrar and Paying Agent. Notices to the
24 registered owners of the Refunding Bonds shall be deemed to be given when mailed
25
26
27
28
29
30

1 by first class mail to the addresses of such registered owners as they appear on the
2 registration books kept by the Registrar.

3 Upon the appointment of any successor registrar and paying agent by the
4 City, the Controller is authorized and directed to enter into such agreements and
5 understandings with such successor registrar and paying agent as will enable the
6 institution to perform the services required of a registrar and paying agent for the
7 Refunding Bonds. The Controller is further authorized to pay such fees as the
8 successor registrar and paying agent may charge for the services it provides as
9 registrar and paying agent and such fees may be paid from the Sewage Works
10 Sinking Fund continued in Section 13 hereof.
11

12 Any predecessor registrar and paying agent shall deliver all of the Refunding
13 Bonds and any cash or investments in its possession with respect thereto, together
14 with the registration books, to the successor registrar and paying agent.
15

16 Interest on the Refunding Bonds shall be payable from the interest payment
17 date to which interest has been paid next preceding the authentication date of the
18 Refunding Bonds unless the Refunding Bonds are authenticated after the Record
19 Date and on or before such interest payment date in which case they shall bear
20 interest from such interest payment date, or unless the Refunding Bonds are
21 authenticated on or before the Record Date preceding the first interest payment date,
22 in which case they shall bear interest from the original date until the principal shall
23 be fully paid.
24

25 The City has determined that it may be beneficial to the City to have the
26 Refunding Bonds held by a central depository system pursuant to an agreement
27

1 between the City and The Depository Trust Company, New York, New York
2 ("Depository Trust Company") and have transfers of the Refunding Bonds effected
3 by book-entry on the books of the central depository system ("Book Entry System").
4 The Refunding Bonds may be initially issued in the form of a separate single
5 authenticated fully registered Refunding Bond for the aggregate principal amount of
6 each separate maturity of the Refunding Bonds. In such case, upon initial issuance,
7 the ownership of such Refunding Bonds shall be registered in the register kept by the
8 Registrar in the name of CEDE & CO., as nominee of the Depository Trust
9 Company.
10

11 With respect to the Refunding Bonds registered in the register kept by the
12 Registrar in the name of CEDE & CO., as nominee of the Depository Trust
13 Company, the City and the Paying Agent shall have no responsibility or obligation to
14 any other holders or owners (including any beneficial owner ("Beneficial Owner"))
15 of the Refunding Bonds with respect to (i) the accuracy of the records of the
16 Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to
17 ownership questions, (ii) the delivery to any bondholder (including any Beneficial
18 Owner) or any other person, other than the Depository Trust Company, of any notice
19 with respect to the Refunding Bonds including any notice of redemption, or (iii) the
20 payment to any bondholder (including any Beneficial Owner) or any other person,
21 other than the Depository Trust Company, of any amount with respect to the
22 principal of, or premium, if any, or interest on the Refunding Bonds except as
23 otherwise provided herein.
24
25
26
27
28
29
30

1 No person other than the Depository Trust Company shall receive an
2 authenticated Refunding Bond evidencing an obligation of the City to make
3 payments of the principal of and premium, if any, and interest on the Refunding
4 Bonds pursuant to this ordinance. The City and the Registrar and Paying Agent may
5 treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute
6 bondholder of each of the Refunding Bonds for the purpose of (i) payment of the
7 principal of and premium, if any, and interest on such Refunding Bonds; (ii) giving
8 notices of redemption and other notices permitted to be given to bondholders with
9 respect to such Refunding Bonds; (iii) registering transfers with respect to such
10 Refunding Bonds; (iv) obtaining any consent or other action required or permitted to
11 be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever.
12 The Paying Agent shall pay all principal of and premium, if any, and interest on the
13 Refunding Bonds only to or upon the order of the Depository Trust Company, and all
14 such payments shall be valid and effective fully to satisfy and discharge the City's
15 and the Paying Agent's obligations with respect to principal of and premium, if any,
16 and interest on the Refunding Bonds to the extent of the sum or sums so paid. Upon
17 delivery by the Depository Trust Company to the City of written notice to the effect
18 that the Depository Trust Company has determined to substitute a new nominee in
19 place of CEDE & CO., and subject to the provisions herein with respect to consents,
20 the words "CEDE & CO." in this ordinance shall refer to such new nominee of the
21 Depository Trust Company. Notwithstanding any other provision hereof to the
22 contrary, so long as any Refunding Bond is registered in the name of CEDE & CO.,
23 as nominee of the Depository Trust Company, all payments with respect to the
24
25
26
27
28
29
30

1 principal of and premium, if any, and interest on such Refunding Bonds and all
2 notices with respect to such Refunding Bonds shall be made and given, respectively,
3 to the Depository Trust Company as provided in a representation letter from the City
4 to the Depository Trust Company.
5

6 Upon receipt by the City of written notice from the Depository Trust
7 Company to the effect that the Depository Trust Company is unable or unwilling to
8 discharge its responsibilities and no substitute depository willing to undertake the
9 functions of the Depository Trust Company hereunder can be found which is willing
10 and able to undertake such functions upon reasonable and customary terms, then the
11 Refunding Bonds shall no longer be restricted to being registered in the register of
12 the City kept by the Registrar in the name of CEDE & CO., as nominee of the
13 Depository Trust Company, but may be registered in whatever name or names the
14 bondholders transferring or exchanging the Refunding Bonds shall designate, in
15 accordance with the provisions of this ordinance.
16

17 If the City determines that it is in the best interest of the bondholders that
18 they be able to obtain certificates for the fully registered Refunding Bonds, the City
19 may notify the Depository Trust Company and the Registrar, whereupon the
20 Depository Trust Company will notify the Beneficial Owners of the availability
21 through the Depository Trust Company of certificates for the Refunding Bonds. In
22 such event, the Registrar shall prepare, authenticate, transfer and exchange
23 certificates for the Refunding Bonds as requested by the Depository Trust Company
24 and any Beneficial Owners in appropriate amounts, and whenever the Depository
25 Trust Company requests the City and the Registrar to do so, the Registrar and the
26
27
28
29
30

1 City will cooperate with the Depository Trust Company by taking appropriate action
2 after reasonable notice (i) to make available one or more separate certificates
3 evidencing the fully registered Refunding Bonds of any Beneficial Owner's
4 Depository Trust Company account or (ii) to arrange for another securities
5 depository to maintain custody of certificates for and evidencing the Refunding
6 Bonds.
7

8 If the Refunding Bonds shall no longer be restricted to being registered in the
9 name of a Depository Trust Company, the Registrar shall cause the Refunding Bonds
10 to be printed in blank in such number as the Registrar shall determine to be necessary
11 or customary; provided, however, that the Registrar shall not be required to have
12 such Refunding Bonds printed until it shall have received from the City
13 indemnification for all costs and expenses associated with such printing.
14

15 In connection with any notice or other communication to be provided to
16 bondholders by the City or the Registrar with respect to any consent or other action
17 to be taken by bondholders, the City or the Registrar, as the case may be, shall
18 establish a record date for such consent or other action and give the Depository Trust
19 Company notice of such record date not less than fifteen (15) calendar days in
20 advance of such record date to the extent possible.
21

22 So long as the Refunding Bonds are registered in the name of the Depository
23 Trust Company or CEDE & CO. or any substitute nominee, the City and the
24 Registrar and Paying Agent shall be entitled to request and to rely upon a certificate
25 or other written representation from the Beneficial Owners of the Refunding Bonds
26 or from the Depository Trust Company on behalf of such Beneficial Owners stating
27
28
29
30

1 the amount of their respective beneficial ownership interests in the Refunding Bonds
2 and setting forth the consent, advice, direction, demand or vote of the Beneficial
3 Owners as of a record date selected by the Registrar and the Depository Trust
4 Company, to the same extent as if such consent, advice, direction, demand or vote
5 were made by the bondholders for purposes of this ordinance and the City and the
6 Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as
7 the bondholders. Along with any such certificate or representation, the Registrar
8 may request the Depository Trust Company to deliver, or cause to be delivered, to
9 the Registrar a list of all Beneficial Owners of the Refunding Bonds, together with
10 the dollar amount of each Beneficial Owner's interest in the Refunding Bonds and
11 the current addresses of such Beneficial Owners.
12

13
14 Section 3. Redemption of Refunding Bonds. The Refunding Bonds
15 maturing on an after August 1, 2021 are redeemable at the option of the City, on
16 February 1, 2021, and on any date thereafter, on thirty (30) days' notice, in whole or
17 in part, in the order of maturity as determined by the City and by lot within a
18 maturity, at face value, without any premium, plus in each case accrued interest to
19 the date fixed for redemption.
20

21 If any Refunding Bond is issued as a term bond, the Paying Agent shall credit
22 against the mandatory sinking fund requirement for the Refunding Bonds maturing
23 as term bonds, and corresponding mandatory redemption obligation, in the order
24 determined by the City, any Refunding Bonds maturing as term bonds which have
25 previously been redeemed (otherwise than as a result of a previous mandatory
26 redemption requirement) or delivered to the Registrar for cancellation or purchased
27
28
29
30

1 for cancellation by the Paying Agent and not theretofore applied as a credit against
2 any redemption obligation. Each Refunding Bond maturing as a term bond so
3 delivered or cancelled shall be credited by the Paying Agent at 100% of the principal
4 amount thereof against the mandatory sinking fund obligation on such mandatory
5 sinking fund date, and any excess of such amount shall be credited on future
6 redemption obligations, and the principal amount of the Refunding Bonds to be
7 redeemed by operation of the mandatory sinking fund requirement shall be
8 accordingly reduced; provided, however, the Paying Agent shall credit only such
9 Refunding Bonds maturing as term bonds to the extent received on or before forty-
10 five (45) days preceding the applicable mandatory redemption date.
11

12
13 Each \$5,000 denomination shall be considered a separate bond for purposes
14 of optional and mandatory redemption. If less than an entire maturity is called for
15 redemption, the Refunding Bonds to be called for redemption shall be selected by lot
16 by the Registrar. If some Refunding Bonds are to be redeemed by optional
17 redemption and mandatory sinking fund redemption on the same date, the Registrar
18 shall select by lot the Bonds for optional redemption before selecting the Bonds by
19 lot for the mandatory sinking fund redemption.
20

21 In either case, notice of such redemption shall be given by mail at least thirty
22 (30) days prior to the date fixed for redemption unless the notice is waived by the
23 registered owner of a Refunding Bond. Such notice shall be mailed to the address of
24 the registered owners as shown on the registration records of the City as of the date
25 which is forty-five (45) days prior to such redemption date. The notice shall specify
26 the date and place of redemption and sufficient identification of the Refunding
27
28
29
30

1 Bonds called for redemption. The place of redemption shall be determined by the
2 City. Interest on the Refunding Bonds so called for redemption shall cease on the
3 redemption date fixed in such notice if sufficient funds are available at the principal
4 office of the Paying Agent to pay the redemption price on the date so named.
5 Coincidentally with the payment of the redemption price, the Refunding Bonds so
6 called for redemption shall be surrendered for cancellation.
7

8 Section 4. Execution and Negotiability. Each of the Refunding Bonds
9 shall be executed in the name of the City by the manual or facsimile signature of the
10 Mayor, countersigned by the manual or facsimile signature of the Controller and
11 attested by the manual or facsimile signature of the Clerk, who shall cause the seal of
12 the City to be affixed, imprinted or impressed to or on each of the Refunding Bonds
13 manually, by facsimile or any other means. These officials, by the execution of a
14 Signature and No Litigation Certificate, shall adopt as and for their own proper
15 signatures the facsimile signatures appearing on the Refunding Bonds. In case any
16 officer whose signature or facsimile signature appears on the Refunding Bonds shall
17 cease to be such officer before the delivery of the Refunding Bonds, the signature of
18 such officer shall nevertheless be valid and sufficient for all purposes the same as if
19 such officer had remained in office until such delivery.
20
21

22 The Refunding Bonds shall have all of the qualities and incidents of
23 negotiable instruments under the laws of the State of Indiana, subject to the
24 provisions for registration herein.
25
26
27
28
29
30

The Refunding Bonds shall also be authenticated by the manual signature of the Registrar and no Refunding Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

Section 5. Form of Bonds. The form and tenor of the Refunding Bonds shall be substantially as set forth in Exhibit A attached hereto and incorporated herein as if set forth at this place (with all blanks to be filled in properly and all necessary additions and deletions to be made prior to the delivery thereof).

Section 6. Authorization for Preparation and Sale of the Refunded Bonds; Official Statement. (a) The Controller is hereby authorized and directed to have the Refunding Bonds prepared, and the Mayor, the Controller and the Clerk are each hereby authorized and directed to execute and attest as appropriate the Refunding Bonds in the form and manner provided herein. The Controller is authorized to deliver the Refunding Bonds to a purchaser ("Purchaser") to be selected by either the Mayor, the Controller, or both, with the advice of the City's financial advisor in accordance with the Purchase Contract ("Purchase Contract"), between the City and the Purchaser. The Mayor and the Controller are authorized to execute the Purchase Contract and deliver the Refunding Bonds to the Purchaser so long as its terms are consistent with this ordinance, including a final principal amount, interest rates, maturity schedule and term bond mandatory redemptions, if any.

In the alternative, the Refunding Bonds may be sold at a competitive bonds sale and such sale may be combined with the sale of the City's Revenue Bonds. The Controller is authorized to set the terms of a competitive sale, with the advice to the

1 City's financial advisor, and such terms shall be set forth in the notice given by the
2 City in connection with the sale of the Refunding Bonds.

3 (b) The Controller is hereby authorized to appoint a financial institution
4 to serve as escrow trustee ("Escrow Trustee") for the Refunded Bonds in accordance
5 with the terms of the Escrow Agreement between the City and the Escrow Trustee
6 ("Escrow Agreement"). The Mayor and the Controller are hereby authorized and
7 directed to complete, execute and attest an Escrow Agreement on behalf of the City
8 so long as its provisions are consistent with this ordinance.
9

10 (c) The execution, by either the Mayor, Controller, the City's financial
11 advisor, the Purchaser, or the successful bidder if the Refunding Bonds are sold at a
12 competitive sale, of a subscription for United States Treasury Obligations -- State
13 and Local Government Series for investments of proceeds of the Refunding Bonds to
14 be held under the Escrow Agreement in a manner consistent with this ordinance is
15 hereby approved.
16

17 (d) The Refunding Bonds, when fully paid for and delivered to the
18 Purchaser or the successful bidder if the Refunding Bonds are sold at a competitive
19 sale, shall be the binding special revenue obligations of the City, payable out of the
20 Net Revenues (herein defined as gross revenues after deduction only for the payment
21 of the reasonable expenses of operation, repair and maintenance, excluding transfers
22 for payments in lieu of taxes ("PILOTs")) of the Sewage Works of the City, on a
23 parity with the Outstanding Bonds, to be set aside into the Sewage Works Sinking
24 Fund continued in Section 13. The proper officers of the City are hereby directed to
25 sell the Refunding Bonds, to draw all proper and necessary warrants, and to do
26
27
28
29
30

1 whatever acts and things which may be necessary to carry out the provisions of this
2 ordinance.

3 (e) Distribution of an Official Statement (preliminary and final) prepared
4 by H.J. Umbaugh & Associates, Certified Public Accountants, LLP, on behalf of the
5 City, is hereby approved and the Mayor or the Controller are authorized and directed
6 to execute the Official Statement on behalf of the City in a form consistent with this
7 ordinance. The Mayor or the Controller are hereby authorized to designate the
8 preliminary Official Statement as "nearly final" for purposes of Rule 15c2-12
9 promulgated by the Securities and Exchange Commission ("Rule").
10

11 Section 7. Refunding of the Refunded Bonds and Costs of Issuance.
12

13 Concurrently with the delivery of the Refunding Bonds, the Controller shall acquire,
14 with the proceeds of the Refunding Bonds and cash on hand, direct obligations of or
15 obligations the principal and interest on which are unconditionally guaranteed by, the
16 United States of America (as appropriate, "Government Obligations") to be used,
17 together with certain cash from the proceeds of the Refunding Bonds and cash on
18 hand as set forth in the Escrow Agreement, to refund and to legally defease the
19 Refunded Bonds all as set forth in the Escrow Agreement. In order to refund the
20 Refunded Bonds, the Controller shall deposit Government Obligations and certain
21 cash with the Escrow Trustee under the Escrow Agreement in an amount sufficient
22 to provide moneys for the payment of the principal of and interest and redemption
23 premium, if any, on the Refunded Bonds from the date of delivery of the Refunding
24 Bonds to the earliest date upon which the Refunded Bonds may be called for
25 redemption.
26
27

1 The City shall obtain a verification of an accountant as to the sufficiency of
2 the funds deposited in the Trust Account under the Escrow Agreement to accomplish
3 said refunding and legal defeasance of the Refunded Bonds.
4

5 Costs of issuance for the refunding not otherwise paid, shall be paid from the
6 remaining proceeds by the Controller. When all the costs of issuance for the
7 refunding have been paid, the Controller shall then transfer any amount then
8 remaining from the proceeds of the Refunding Bonds to the Sinking Fund herein
9 created.
10

11 Section 8. Accrued Interest. The accrued interest received at the time of
12 delivery of the Refunding Bonds, if any, shall be deposited in the Sewage Works
13 Sinking Fund continued in Section 13 and used to pay interest on the Refunding
14 Bonds on the first interest payment date for the Refunding Bonds.

15 Section 9. Books of Record and Accounts; Continuing Disclosure. (a)
16 The City shall keep proper books of record and accounts, separate from all of its
17 other records and accounts, in which completed and correct entries shall be made
18 showing all revenues collected from said works and deposited in said funds, and
19 all disbursements made therefrom on account of the operation of the works, and to
20 meet the requirements of the Sewage Works Sinking Fund, and all other financial
21 transactions relating to said works, including the amounts set aside or credited to
22 the Sinking Fund, the Operation and Maintenance Fund and the Sewage Works
23 Improvement Fund, and the cash balances in each of said funds and accounts
24 described herein as of the close of the preceding fiscal year. Copies of all such
25 statements and reports shall be kept on file in the office of the Controller.
26
27
28
29
30

1 (b) So long as any of the Outstanding Bonds are held by the Authority,
2 the City shall establish and maintain the books and other financial records of the
3 Sewage Works (including the establishment of a separate account or subaccount for
4 the Sewage Works in accordance with (i) generally accepted governmental
5 accounting standards for utilities, on an accrual basis, as promulgated by the
6 Government Accounting Standards Board and (ii) the rules, regulations and guidance
7 of the State Board of Accounts.
8

9 (c) If the Refunding Bonds are subject to the Rule, the Mayor and
10 Controller are hereby authorized and directed to complete, execute and attest a
11 Continuing Disclosure Undertaking ("Undertaking") on behalf of the City, consistent
12 with the terms of this ordinance, if necessary to comply with the Rule.
13 Notwithstanding any other provisions of this ordinance, failure of the City to comply
14 with the Undertaking shall not be considered an event of default under this ordinance
15 or the Refunding Bonds.
16

17 Section 10. Pledge of Net Revenues. The interest on and the principal of
18 the Refunding Bonds issued pursuant to the provisions of this ordinance, and any
19 bonds hereafter issued on a parity therewith, shall constitute a first charge on all
20 the Net Revenues, on a parity with the Outstanding Bonds, and such Net Revenues
21 are hereby irrevocably pledged to the payment of the interest on and principal of
22 such Refunding Bonds, to the extent necessary for that purpose.
23

24 Section 11. Segregation and Application of Sewage Works Revenues.
25 All revenues derived from the operation of the Sewage Works and from the
26 collection of sewage rates and charges shall be deposited in a special fund of the City
27
28
29
30

1 ("Revenue Fund") and segregated and kept separate and apart from all other funds
2 and bank accounts of the City. Out of said revenues the proper and reasonable
3 expenses of operation, repair and maintenance of the Sewage Works shall be paid,
4 the principal and interest of all bonds and fiscal agency charges of bank paying
5 agents shall be paid, debt service reserves shall be funded, and the costs of
6 replacements, extensions, additions and improvements shall be paid as hereinafter
7 provided. PILOTs shall be made not more frequently than semiannually on June
8 30 and December 31 and may be made only if all monthly deposits required by
9 this ordinance are current and held as of such dates in the Operation and
10 Maintenance Fund and the Sewage Works Sinking Fund (each as defined herein).
11 Other than the PILOTs, no moneys derived from the revenues of the Sewage Works
12 shall be transferred to the General Fund of the City or be used for any purpose not
13 connected with the Sewage Works. All moneys deposited in the Revenue Fund may
14 be invested in accordance with IC 5-13-9, as amended and supplemented including
15 pursuant to IC 4-4-11 and IC 13-18-13.

16
17
18 Section 12. Operation and Maintenance Fund. The Operation and
19 Maintenance Fund ("Operation and Maintenance Fund") is hereby continued. On
20 the last day of each calendar month, revenues of the Sewage Works shall be
21 transferred from the Revenue Fund to the Operation and Maintenance Fund. The
22 balance maintained in this Fund shall be sufficient to pay the expenses of operation,
23 repair and maintenance for the then next succeeding two calendar months. The
24 moneys credited to this Fund shall be used for the payment of the reasonable and
25 proper operation, repair and maintenance expenses of the sewage works on a day-to-
26
27
28
29
30

1 day basis, but none of the moneys in such Fund shall be used for PILOTs,
2 depreciation, replacements, improvements, extensions or additions. Any monies in
3 said Fund in the excess of the expected expenses of operation, repair and
4 maintenance for the next succeeding month may be transferred to the Sewage Works
5 Sinking Fund if necessary to prevent a default in the payment of principal of or
6 interest on the outstanding bonds of the Sewage Works.
7

8 Section 13. Sewage Works Sinking Fund. (a) The special fund
9 designated the "Sewage Works Sinking Fund," created under Ordinance No. 1939,
10 adopted on July 26, 1938, and continued under the Prior Ordinances is hereby
11 continued and designated as the special fund for the payment of the interest on and
12 principal of the Refunding Bonds and the payment of any fiscal agency charges in
13 connection with the payment of the Refunding Bonds and interest thereon. There
14 shall be set aside and deposited in the Sewage Works Sinking Fund ("Sinking
15 Fund"), as available, and as hereinafter provided, a sufficient amount of the Net
16 Revenues of the Sewage Works to meet the requirements of the Bond and Interest
17 Account hereby continued and the Reserve Accounts hereby continued in the
18 Sinking Fund. The special account within the Sinking Fund designated as the
19 "2002/2007/2011 Sewage Works Reserve Account" and re-designated and
20 continued by the 2002 Bond Ordinance, the 2007 Bond Ordinance and the 2009
21 Bond Ordinance as the "Sewage Works Reserve Account," which account is
22 hereby continued as a debt service reserve for all Outstanding Bonds except those
23 initially purchased by or for the account of the SRF Program shall serve as the debt
24 service reserve for the Refunding Bonds issued hereunder. Such payments shall
25
26
27
28
29
30

1 continue until the balances in the Bond and Interest Account and the Reserve
2 Accounts, equal the principal of and interest on all of the then outstanding bonds of
3 the Sewage Works to their final maturity. The SRF Reserve Account is hereby
4 continued as a debt service reserve solely for the Outstanding Bonds which were
5 initially purchased by or for the account of the SRF Program.
6

7 (b) Bond and Interest Account. Any moneys heretofore accumulated to
8 pay principal and interest on the Refunded Bonds shall be credited to and become a
9 part of the Trust Account under the Escrow Agreement and shall be applied on the
10 first payments made from the Trust Account. There shall be credited on the last day
11 of each calendar month from the Revenue Fund to the Bond and Interest Account,
12 hereby continued, an amount of the Net Revenues equal to at least one-twelfth (1/12)
13 of the principal and at least one-sixth (1/6) of the interest on all then outstanding
14 bonds payable on the then next succeeding principal and interest payment date, until
15 the amount of interest and principal payable on the then next succeeding interest and
16 principal payment date shall have been so credited. There shall similarly be credited
17 to the account any amount necessary to pay the bank fiscal agency charges for
18 paying principal and interest on outstanding bonds as the same become payable. The
19 City shall, from the sums deposited in the Sinking Fund and credited to the Bond and
20 Interest Account, remit promptly to the registered owner or to the bank fiscal agency
21 sufficient moneys to pay the principal and interest on the due dates thereof together
22 with the amount of bank fiscal agency charges.
23

24
25 (c) Reserve Accounts. The Sewage Works Reserve Account ("Reserve
26 Account") is hereby continued. Any moneys accumulated as a reserve in the
27
28
29
30

1 Reserve Account for the Refunded Bonds may be credited to and made a part of the
2 Trust Account under the Escrow Agreement and used for the refunding of the
3 Refunded Bonds. On the date of delivery of any series of Refunding Bonds, funds
4 on hand of the Sewage Works, Refunding Bond proceeds, a debt service reserve
5 surety bond ("Surety Bond"), or a combination thereof may be deposited into the
6 Reserve Account. The balance to be maintained in the Reserve Account shall equal
7 but not exceed the least of: (i) maximum annual debt service on the Outstanding
8 Bonds (not initially purchased by or for the account of the SRF Program), Refunding
9 Bonds and any parity bonds issued in the future by the City which are payable from
10 Net Revenues of the Sewage Works ("Parity Bonds") and not initially purchased by
11 or for the account of the SRF Program; (ii) 125% of average annual debt service on
12 the Outstanding Bonds (not initially purchased by or for the account of the SRF
13 Program), the Refunding Bonds and any Parity Bonds (not initially purchased by or
14 for the account of the SRF Program); or (iii) 10% of the proceeds of the Outstanding
15 Bonds (not initially purchased by or for the account of the SRF Program), the
16 Refunding Bonds and any Parity Bonds (not initially purchased by or for the account
17 of the SRF Program) ("Reserve Requirement"). If the initial deposit into the
18 Reserve Account does not cause the balance therein to equal the Reserve
19 Requirement or if no deposit is made, a sum of Net Revenues shall be credited to the
20 Reserve Account on the last day of each calendar month until the balance therein
21 equals the Reserve Requirement. The monthly deposits of Net Revenues shall be
22 equal in amount and sufficient to accumulate the Reserve Requirement within twelve
23 (12) months of the date of delivery of the Refunding Bonds. The Reserve Account

1 shall not secure and may not be used to pay the Zanesville Bonds, or any
2 Outstanding Bonds or Parity Bonds which are initially purchased by or for the
3 account of the SRF Program.
4

5 There is hereby continued within the Sinking Fund, the SRF Reserve
6 Account ("SRF Reserve Account"). Any moneys accumulated as a reserve in the
7 SRF Reserve Account for the Refunded Bonds may be credited to and made a part of
8 the Trust Account under the Escrow Agreement and used for the refunding of the
9 Refunded Bonds. The SRF Reserve Account shall not secure and may not be used to
10 pay the Zanesville Bonds, the Refunding Bonds or any Outstanding Bonds or Parity
11 Bonds which are not initially purchased by or for the account of the SRF Program.
12 The provisions for the SRF Reserve Account as set forth in the Prior Ordinances
13 shall continue to be complied with for the Outstanding Bonds purchased by or for the
14 account of the SRF Program.
15

16 Any Surety Bond must be issued by an insurance company rated (at the time
17 the Surety Bond is purchased) in the highest rating category by Standard & Poor's
18 Corporation or Moody's Investors Service. However, as long as any of the
19 Outstanding Bonds or bonds initially purchased by or for the account of the SRF
20 Program, the City shall receive consent of the Authority before funding any portion
21 of the SRF Reserve Account with such Surety Bond. If such a Surety Bond is
22 purchased, the Mayor and the Controller are hereby authorized to execute and deliver
23 all agreements with the provider of the Surety Bond to the extent necessary to
24 comply with the terms of such Surety Bond and the commitment to issue such
25
26
27
28
29
30

1 policy. Such agreements shall be deemed a part of this ordinance for all purposes
2 and are hereby incorporated herein by reference.

3 The respective Reserve Accounts shall constitute the margin for safety and a
4 protection against default in the payment of principal and interest on the respective
5 Outstanding Bonds, the Refunding Bonds and any Parity Bonds which they
6 respectively secure, and moneys in the respective Reserve Accounts shall be used to
7 pay current principal and interest on the respective Outstanding Bonds, the
8 Refunding Bonds and any Parity Bonds which they respectively secure to the extent
9 that moneys in the Bond and Interest Account, after applied on a pro rata basis to any
10 Outstanding Bonds, Refunding Bonds and Parity Bonds, are insufficient for that
11 purpose. Any deficiency in the balances maintained in the respective Reserve
12 Accounts shall be promptly made up from the next available Net Revenues
13 remaining after credits into the Bond and Interest Account on a pro rata basis within
14 a twelve (12) month period. Any moneys in the respective Reserve Accounts in
15 excess of the Reserve Requirement or the SRF Reserve Requirement shall be
16 transferred to the Sewage Works Improvement Fund.

17 Section 14. Sewage Works Improvement Fund. After meeting the
18 requirements of the Operation and Maintenance Fund and the Sinking Fund, any
19 excess revenues may be transferred or credited from the Revenue Fund to the
20 "Sewage Works Improvement Fund ("Improvement Fund"), hereby continued, and
21 said Fund shall be used for replacements, additions, improvements and extensions of
22 the Sewage Works or for any other lawful purpose, so long as such use pertains to
23 and involves the business of the Sewage Works. PILOTs shall be made not more
24

1 frequently than semiannually on June 30 and December 31 and may be made only if
2 the amounts required to be held as of such dates in the Operation and Maintenance
3 Fund and the Sinking Fund pursuant to Section 12 and Section 13 are so held after
4 considering any such contemplated payment. Moneys in the Improvement Fund
5 shall be transferred to the Sinking Fund if necessary to prevent a default in the
6 payment of principal of or interest on the then outstanding bonds or, if necessary, to
7 eliminate any deficiencies in credits to or minimum balance in the Reserve Accounts
8 of the Sinking Fund or may be transferred to the Operation and Maintenance Fund to
9 meet unforeseen contingencies in the operation, repair and maintenance of the
10 Sewage Works.
11

12
13 Section 15. Investments. The Sinking Fund shall be deposited in and
14 maintained as a separate account or accounts from all other accounts of the City.
15 The Operation and Maintenance Fund and the Improvement Fund may be maintained
16 in a single account, or accounts, but such account, or accounts, shall likewise be
17 maintained separate and apart from all other accounts of the City and apart from the
18 Sinking Fund account or accounts. All moneys deposited in the accounts shall be
19 deposited, held and secured as public funds in accordance with the public depository
20 laws of the State of Indiana; provided that moneys therein may be invested in
21 obligations in accordance with the applicable laws, including particularly Indiana
22 Code, Title 5, Article 13, as amended or supplemented, and in the event of such
23 investment the income therefrom shall become a part of the funds invested and shall
24 be used only as provided in this ordinance.
25
26
27
28
29
30

1 Section 16. Defeasance of the Refunding Bonds. If, when the Refunding
2 Bonds or a portion thereof shall have become due and payable in accordance with
3 their terms or shall have been duly called for redemption or irrevocable instructions
4 to call the Refunding Bonds or a portion thereof for redemption shall have been
5 given, and the whole amount of the principal and the interest and the premium, if
6 any, so due and payable upon all of the Refunding Bonds or a portion thereof then
7 outstanding shall be paid; or (i) sufficient moneys or (ii) direct obligations of
8 (including obligations issued or held in book entry form on the books of) the
9 Department of the Treasury, the principal of and the interest on which when due will
10 provide sufficient moneys for such purpose, shall be held in trust for such purpose,
11 and provision shall also be made for paying all fees and expenses for the redemption,
12 then and in that case the Refunding Bonds or any designated portion thereof issued
13 hereunder shall no longer be deemed outstanding or entitled to the pledge of the Net
14 Revenues of the City's Sewage Works.
15

16 Section 17. Rates and Charges. The City covenants and agrees that it will
17 establish and maintain just and equitable rates or charges for the use of and the
18 services rendered by said works, to be paid by the owner of each and every lot,
19 parcel of real estate or building that is connected with and uses the Sewage Works by
20 or through any part of the Sewage Works system of the City, or that in any way uses
21 or is served by such Sewage Works, and that such rates or charges shall be
22 sufficient in each year to produce Net Revenues equal to 1.1 times the greater of the
23 average annual debt service on the Outstanding Bonds, the Refunding Bonds and
24 any Parity Bonds or the debt service payable during the next succeeding twelve
25
26
27
28
29
30

1 calendar months on the Outstanding Bonds, the Refunding Bonds and any Parity
2 Bonds. For these purposes, the interest rate on variable rate debt shall be
3 assumed to be the average interest rate thereon in the preceding calendar year.
4

5 Such rates or charges shall, if necessary, be changed and readjusted from
6 time to time so that the revenues therefrom shall always be sufficient to meet the
7 expenses of Operation and Maintenance (as defined in the Financial Assistance
8 Agreement) of the Sewage Works and the requirements of the Sinking Fund. The
9 rates or charges so established shall apply to any and all use of such Sewage Works
10 by and service rendered to the City and all departments thereof and shall be paid
11 semiannually by the City or the various departments thereof as the charges accrue.
12

13 Section 18. Additional Bond Provisions. The City reserves the right to
14 authorize and issue additional Parity Bonds, payable out of the Net Revenues of its
15 Sewage Works, ranking on a parity with the Refunding Bonds, for the purpose of
16 financing the cost of future additions, extensions and improvements to the Sewage
17 Works, or to refund obligations, subject to the following conditions:
18

19 (a) The interest on and principal of all bonds payable from the revenues
20 of the Sewage Works shall have been paid to date in accordance with the terms
21 thereof, provided, this condition shall be deemed satisfied if any required amount is
22 to be provided from the proceeds of the Parity Bonds or other funds of the City, and
23 all required payments into the Sinking Fund shall have been made in accordance
24 with the provisions of this ordinance.
25

26 (b) As of the date of issuance of such additional Parity Bonds, the
27 balance in the Reserve Account shall equal not less than the Reserve Requirement,
28
29
30

1 and the balance in the SRF Reserve Account shall equal not less than the SRF
2 Reserve Requirement, calculated to include principal and interest requirements on
3 the Refunding Bonds, any then outstanding parity bonds and the additional Parity
4 Bonds proposed to be issued, provided this condition shall be deemed satisfied if
5 any required amount is to be provided from the proceeds of the newly issued Parity
6 Bonds or other funds of the City over a period of no longer than five (5) years
7 following the delivery of the Parity Bonds.
8

9 (c) The Net Revenues of the Sewage Works in the fiscal year
10 immediately preceding the issuance of any such Parity Bonds shall be not less than
11 one hundred twenty-five percent (125%) of the maximum annual interest and
12 principal requirements of the then outstanding bonds, any then outstanding parity
13 bonds and the additional Parity Bonds proposed to be issued; or, prior to the
14 issuance of the Parity Bonds, the sewage rates and charges shall be increased or the
15 service area or customer base shall be expanded sufficiently so that said increased
16 rates and charges and/or volume applied to the previous fiscal year's operations
17 would have produced Net Revenues for said year equal to not less than one
18 hundred twenty-five percent (125%) of the maximum annual interest and principal
19 requirements of the then outstanding bonds, any then outstanding parity bonds and
20 the additional Parity Bonds proposed to be issued. For purposes of this subsection,
21 the records of the Sewage Works shall be analyzed and all showings shall be
22 prepared by a certified public accountant or nationally recognized firm of
23 professionals experienced in analyzing financial records of municipal utilities
24 retained by the City for that purpose.
25
26
27
28
29
30

1 (d) The principal of said additional Parity Bonds shall be payable on
2 August 1 and the interest on said additional Parity Bonds shall be payable
3 semiannually on February 1 and August 1 during the periods in which such
4 principal and interest are payable, and, if the additional Parity Bonds are issued as
5 capital appreciation bonds, the amount payable at maturity thereof shall be payable
6 on February 1 and/or August 1 during the periods in such maturity amounts are
7 payable.
8

9 (e) Additional Parity Bonds issued as variable rate debt must be
10 assumed to bear the maximum interest rate thereon for the purpose of certifying
11 satisfaction of the 125% condition set forth above, and a maximum rate must be set
12 for any such variable rate additional Parity Bonds. Furthermore, any put feature
13 associated with such variable rate debt must be covered by remarketing proceeds or
14 a liquidity facility issued by a provider which is rated in one of the two highest
15 short-term rating categories of Moody's Investors Service or Standard & Poors
16 Ratings Group.
17

18 (f) For so long as any of the Outstanding Bonds are outstanding and
19 owned by the Authority as part of its SRF Program, (i) the City obtains the consent
20 of the Authority, (ii) the City has faithfully performed and is in compliance with
21 each of its obligations, agreements and covenants contained in the Financial
22 Assistance Agreement and this resolution, and (iii) the City is in compliance with
23 its National Pollutant Discharge Elimination System permits, except for non-
24 compliance for which purpose the additional Parity Bonds are issued, including
25
26
27
28
29
30

1 refunding bonds issued prior to, but part of the overall plan to eliminate such non-
2 compliance.

3 Section 19. Further Covenants. For the purpose of further safeguarding
4 the interests of the holders of the Refunding Bonds, it is specifically provided as
5 follows:
6

7 (a) So long as any of the Refunding Bonds are outstanding, the City shall
8 at all times maintain its Sewage Works in good condition and operate the same in an
9 efficient manner and at a reasonable cost.

10 (b) So long as any of the Refunding Bonds herein authorized are
11 outstanding, the City shall maintain insurance coverage, including fidelity bonds, to
12 protect the Sewage Works and its operations on the insurable parts of the Sewage
13 Works of a kind and in an amount such as would normally be carried by private
14 companies engaged in a similar type of business, and, so long as any of the
15 Outstanding Bonds are owned by the Authority as part of its SRF Program such
16 insurance shall be acceptable to the Authority. All insurance shall be placed with
17 responsible insurance companies qualified to do business under the laws of the
18 State of Indiana, provided, however, such insurance requirement may be satisfied,
19 in part or in whole, through the City's self insurance program. Insurance proceeds
20 and condemnation awards shall be used to replace or repair the property,
21 provided, for so long as any of the Outstanding Bonds are owned by the Authority
22 as part of its SRF Program, the Authority may consent to a different use of such
23 proceeds.
24
25
26
27
28
29
30

1 (c) So long as any of the Refunding Bonds are outstanding, the City shall
2 not mortgage, pledge, sell or otherwise encumber the Sewage Works, or any portion
3 thereof nor shall it sell, lease or otherwise dispose of any part thereof, except to
4 replace equipment which may become worn out or obsolete, provided however, only
5 with the prior written consent of the Authority so long as any of the Outstanding
6 Bonds are owned by the Authority as part of its SRF Program.
7

8 (d) So long as any of the Outstanding Bonds are outstanding and owned
9 by the Authority as part of its SRF Program, the City shall not borrow any money,
10 enter into any contract or agreement or incur any other liabilities in connection with
11 the Sewage Works, other than for normal operating expenditures, without the prior
12 written consent of the Authority if such undertaking would involve, commit or use
13 the revenues of the Sewage Works.
14

15 (e) Except as hereinbefore provided in Section 18 hereof, so long as any
16 of the Refunding Bonds herein authorized are outstanding, no additional bonds or
17 other obligations pledging any portion of the revenues of the Sewage Works shall be
18 authorized, executed, or issued by the City except such as shall be made subordinate
19 and junior in all respects to the Refunding Bonds herein authorized, unless all of the
20 Refunding Bonds herein authorized are redeemed, retired or defeased pursuant to
21 Section 16 hereof coincidentally with the delivery of such additional bonds or other
22 obligations.
23

24 (f) The City shall take all action or proceedings necessary and proper to
25 require connection of all property where liquid and solid waste, sewage, night soil or
26
27
28
29
30

1 industrial waste is produced with available sanitary sewers. The City shall, insofar
2 as possible, cause all such sanitary sewers to be connected with the Sewage Works.

3 (g) The provisions of this ordinance shall constitute a contract by and
4 between the City and the owners of the Refunding Bonds herein authorized, and after
5 the issuance of the Refunding Bonds, this ordinance shall not be repealed or
6 amended in any respect which will adversely affect the rights of the owners of the
7 Refunding Bonds nor shall the Common Council adopt any law, ordinance or
8 resolution which in any way adversely affects the rights of such Refunding Bond
9 owners so long as any of the Refunding Bonds or the interest thereon remain unpaid.
10 Except for the changes set forth in Section 20(a)-(f), this ordinance may be amended,
11 however, without the consent of Refunding Bond owners, if the Common Council
12 determines, in its sole discretion, that such amendment would not adversely affect
13 the owners of the Refunding Bonds.

14 (h) The provisions of this ordinance shall be construed to create a trust in
15 the proceeds of the sale of the Refunding Bonds herein authorized for the uses and
16 purposes herein set forth, and the owners of the Refunding Bonds shall retain a lien
17 on such proceeds until the same are applied in accordance with the provisions of this
18 ordinance and of the governing Act. The provisions of this ordinance shall also be
19 construed to create a trust in the portion of the Net Revenues herein directed to be set
20 apart and paid into the Sinking Fund for the uses and purposes of said fund as in this
21 ordinance set forth. The owners of the Refunding Bonds shall have all of the rights,
22 remedies and privileges set forth in the provisions of the governing Act hereinbefore
23 referred to, including the right to have a receiver appointed to administer the Sewage
24
25
26
27
28
29
30

1 Works, in the event of default in the payment of the principal of or interest on any of
2 the Refunding Bonds herein authorized or in the event of default in respect to any of
3 the provisions of this ordinance or the governing Act.

4 Section 20. Amendments with Consent of Bondholders. Subject to the
5 terms and provisions contained in this section, and not otherwise, the owners of not
6 less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of
7 the Refunding Bonds issued pursuant to this ordinance and then outstanding shall
8 have the right from time to time, anything contained in this ordinance to the contrary
9 notwithstanding, to consent to and approve the adoption by the Common Council of
10 the City of such ordinance or ordinances supplemental hereto or amendatory hereof,
11 as shall be deemed necessary or desirable by the City for the purpose of modifying,
12 altering, amending, adding to or rescinding in any particular manner any of the terms
13 or provisions contained in this ordinance, or in any supplemental ordinance;
14 provided, however, that nothing herein contained shall permit or be construed as
15 permitting:

16 (a) An extension of the maturity of the principal of or interest on, or any
17 mandatory sinking fund redemption date for, any Refunding Bond issued pursuant to
18 this ordinance; or

19 (b) A reduction in the principal amount of any Refunding Bond or the
20 redemption premium or the rate of interest thereon; or

21 (c) The creation of a lien upon or a pledge of the revenues or Net
22 Revenues of the sewage works ranking prior to the pledge thereof created by this
23 ordinance; or

1 (d) A preference or priority of any Refunding Bond or Refunding Bonds
2 issued pursuant to this ordinance over any other Refunding Bond or Refunding
3 Bonds issued pursuant to the provisions of this ordinance; or
4

5 (e) A reduction in the aggregate principal amount of the Refunding
6 Bonds required for consent to such supplemental ordinance; or
7

8 (f) A reduction in the Reserve Requirement.

9 If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in
10 aggregate principal amount of the Refunding Bonds outstanding at the time of
11 adoption of such supplemental ordinance shall have consented to and approved the
12 adoption thereof by written instrument to be maintained on file in the office of the
13 Clerk of the City, no owner of any Refunding Bond issued pursuant to this ordinance
14 shall have any right to object to the adoption of such supplemental ordinance or to
15 object to any of the terms and provisions contained therein or the operation thereof,
16 or in any manner to question the propriety of the adoption thereof, or to enjoin or
17 restrain the Common Council of the City from adopting the same, or from taking any
18 action pursuant to the provisions thereof. Upon the adoption of any supplemental
19 ordinance pursuant to the provisions of this section, this ordinance shall be, and shall
20 be deemed, modified and amended in accordance therewith, and the respective
21 rights, duties and obligations under this ordinance of the City and all owners of
22 Refunding Bonds then outstanding, shall thereafter be determined, exercised and
23 enforced in accordance with this ordinance, subject in all respects to such
24 modifications and amendments. Notwithstanding anything contained in the
25 foregoing provisions of this ordinance, the rights and obligations of the City and of
26
27
28
29
30

1 the owners of the Refunding Bonds authorized by this ordinance, and the terms and
2 provisions of the Refunding Bonds and this ordinance, or any supplemental or
3 amendatory ordinance, may be modified or altered in any respect with the consent of
4 the City and the consent of the owners of all the Refunding Bonds then outstanding.

5
6 Section 21. Tax Covenants. In order to preserve the exclusion of interest
7 on the Refunding Bonds from gross income for federal tax purposes under
8 Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance
9 of the Refunding Bonds ("Code") and as an inducement to purchasers of the
10 Refunding Bonds, the City represents, covenants and agrees that:

11 (a) Since the date of issuance of the Refunded Bonds and until the earlier
12 of the last date of the reasonably expected economic life of the projects constructed
13 with funds from the Refunded Bonds or the latest maturity date of the Refunding
14 Bonds ("Combined Measurement Period"), the sewage works will be available for
15 use by members of the general public. Use by a member of the general public means
16 use by natural persons not engaged in a trade or business. During the Combined
17 Measurement Period, no person or entity other than the City or another state or local
18 governmental unit will use more than 10% of the proceeds of the Refunding Bonds
19 or property financed by the Refunded Bond proceeds other than as a member of the
20 general public. During the Combined Measurement Period, no person or entity other
21 than the City or another state or local governmental unit will own property financed
22 by 1994 Bond proceeds or will have any actual or beneficial use of such property
23 pursuant to a lease, a management or incentive payment contract, arrangements such
24 as take-or-pay or output contracts or any other type of arrangement that conveys
25
26
27
28
29
30

1 other special legal entitlements and differentiates that person's or entity's use of such
2 property from use by the general public, unless such uses in the aggregate relate to
3 no more than 10% of the proceeds of the Refunding Bonds. If the City enters into a
4 management contract for the sewage works, the terms of the contract will comply
5 with IRS Revenue Procedure 97-13, as it may be amended, supplemented or
6 superseded for time to time, so that the contract will not give rise to private business
7 use under the Code and the Regulations, unless such use in aggregate relates to no
8 more than 10% of the proceeds of the Refunding Bonds.
9

10 (b) No more than 10% of the principal of or interest on the Refunding
11 Bonds over the Combined Measurement Period will be (under the terms of the
12 Refunding Bonds, this ordinance or any underlying arrangement), directly or
13 indirectly, secured by an interest in property used or to be used for any private
14 business use or payments in respect of any private business use or payments in
15 respect of such property or to be derived from payments (whether or not to the City)
16 in respect of such property or borrowed money used or to be used for a private
17 business use.
18

19 (c) No more than 5% of the Refunding Bond proceeds will be loaned to
20 any person or entity other than another state or local governmental unit. No more
21 than 5% of the Refunding Bond proceeds will be transferred, directly or indirectly, or
22 deemed transferred to a nongovernmental person in any manner that would in
23 substance constitute a loan of the Refunding Bond proceeds.
24

25 (d) The City reasonably expects, as of the date hereof, that the Refunding
26 Bonds will not meet either the private business use test described in paragraph (a)
27
28
29
30

1 and (b) above or the private loan test described in paragraph (c) above for the
2 Combined Measurement Period.

3 (e) During the Combined Measurement Period, more than 5% of the
4 proceeds of the Refunding Bonds will be attributable to private business use as
5 described in (a) and private security or payments described in (b) attributable to
6 unrelated or disproportionate private business use. For this purpose, the private
7 business use test is applied by taking into account only use that is not related to any
8 government use of proceeds of the issue (Unrelated Use) and use that is related but
9 disproportionate to any governmental use of those proceeds (Disproportionate Use).
10

11 (f) The City will not take any action nor fail to take any action with
12 respect to the Refunding Bonds that would result in the loss of the exclusion from
13 gross income for federal tax purposes on the Refunding Bonds pursuant to
14 Section 103 of the Code, nor will the City act in any other manner which would
15 adversely affect such exclusion. The City covenants and agrees not to enter into any
16 contracts or arrangements which would cause the Refunding Bonds to be treated as
17 private activity bonds under Section 141 of the Code.
18

19 (g) It shall not be an event of default under this ordinance if the interest
20 on any Refunding Bond is not excludable from gross income for federal tax purposes
21 or otherwise pursuant to any provision of the Code which is not currently in effect
22 and in existence on the date of issuance of the Refunding Bonds.
23

24 (h) The City represents that it will rebate any arbitrage profits to the
25 United States in accordance with Section 148(f) of the Code with respect to the
26 Bonds.
27

1 (i) These covenants are based solely on current law in effect and in
2 existence on the date of delivery of such Refunding Bonds.

3 Section 22. Noncompliance with Tax Covenants. Notwithstanding any
4 other provisions of this ordinance, the covenants and authorizations contained in this
5 ordinance ("Tax Sections") which are designed to preserve the exclusion of interest
6 on the Refunding Bonds from gross income under federal law ("Tax Exemption")
7 need not be complied with if the City receives an opinion of nationally recognized
8 bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.
9

10 Section 23. Conflicting Ordinances. All ordinances and parts of
11 ordinances in conflict herewith are hereby repealed; provided, however, that this
12 ordinance shall not be construed as modifying, amending or repealing the Prior
13 Ordinances or as adversely affecting the rights of the holders of the aforementioned
14 Outstanding Bonds or the Refunded Bonds.
15

16 Section 24. Headings. The headings or titles of the several sections shall
17 be solely for convenience of reference and shall not affect the meaning, construction
18 or effect of this ordinance.
19

20 Section 25. Effective Date. This ordinance shall be in full force and effect
21 from and after its passage and approval by the Mayor.
22

23 _____
Council Member

24 APPROVED AS TO FORM AND LEGALITY

25 _____
26 Carol Helton, City Attorney
27
28
29
30

EXHIBIT A

Form of Refunding Bonds

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Fort Wayne, Indiana or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

NO. _____

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF ALLEN

CITY OF FORT WAYNE

SEWAGE WORKS REFUNDING REVENUE BOND OF _____[, SERIES _____]

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Date</u>	<u>Authentication Date</u>	<u>CUSIP</u>
----------------------	----------------------	----------------------	----------------------------	--------------

REGISTERED OWNER:

PRINCIPAL SUM:

The City of Fort Wayne, in Allen County, State of Indiana ("City"), for value received, hereby promises to pay to the Registered Owner named above or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above on [the Maturity Date set forth above] **OR** [August 1 in the years and in the amounts as set forth on Exhibit A attached hereto] (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest hereon at the Interest Rate per annum [stated above] **OR** [set forth on Exhibit A attached hereto] from the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case it shall bear interest from such interest payment date or unless this bond is authenticated on or before _____, 20____, in which case it shall bear interest from the Original Date, until the principal is paid, which interest is payable semiannually on the first days of February and August in each year, beginning on _____, 20____.

1 The principal of this bond is payable at the principal office of _____
2 _____ ("Registrar" or "Paying Agent"), in the _____ of
3 _____, Indiana. All payments of interest on this bond shall be paid by check, mailed
4 one business day prior to the interest payment date to the registered owner hereof as of the
5 fifteenth day of the month preceding such interest payment date at the address as it appears
6 on the registration books kept by the Registrar or at such other address as is provided to the
7 Paying Agent in writing by the registered owner. If payment of principal or interest is
8 made to a depository, payment shall be made by wire transfer on the payment date in same-
9 day funds. If the payment date occurs on a date when financial institutions are not open for
10 business, the wire transfer shall be made on the next succeeding business day. The Paying
11 Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments
12 are received at the depository by 2:30 p.m. (New York City time). All payments on the
13 bond shall be made in any coin or currency of the United States of America, which on the
14 dates of such payment shall be legal tender for the payment of public and private debts.

15 [The bonds shall be initially issued in a Book-Entry System (as defined in the
16 Ordinance). The provisions of this bond and of the Ordinance are subject in all respects to
17 the provisions of the Letter of Representations between the City and The Depository Trust
18 Company, or any substitute agreement, effecting such Book Entry System.]

19 THE CITY SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE
20 INTEREST HEREON EXCEPT FROM THE HEREINAFTER DESCRIBED SPECIAL
21 FUND, AND NEITHER THIS BOND NOR THE ISSUE OF WHICH IT IS A PART
22 SHALL IN ANY RESPECT CONSTITUTE A CORPORATE INDEBTEDNESS OF THE
23 CITY WITHIN THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF
24 THE STATE OF INDIANA.

25 This bond is [the only] one of an authorized issue of bonds of the City [of like date,
26 tenor and effect, except as to rates of interest [series designation] and dates of maturity;]
27 aggregating _____ Dollars (\$) [for
28 this series]; numbered consecutively from 1 up; issued for the purpose of refunding certain
29 Refunded Bonds (as defined in the hereinafter defined Ordinance) and to pay costs of
30 issuance and incidental expenses[, including a premium for a debt service reserve surety].
This bond is issued pursuant to an Ordinance adopted by the Common Council of the City
on the _____ day of _____, 2012, entitled "An Ordinance concerning the refunding by
the City of Fort Wayne of certain outstanding sewage works revenue bonds; authorizing the
issuance of sewage works refunding revenue bonds for such purpose; providing for the
collection, segregation and distribution of the revenues of the sewage works and the
safeguarding of the interests of the owners of the sewage works refunding revenue bonds
authorized herein; other matters connected therewith; and repealing ordinances inconsistent
herewith" ("Ordinance"), and in accordance with the provisions of Indiana law, including
without limitation Indiana Code 5-1-5 and Indiana Code 36-9-23, each as in effect on the
date of delivery of the bonds (collectively, "Act"), the proceeds of which bonds are to be
applied solely to the refunding of the Refunded Bonds, including the incidental expenses
incurred in connection therewith.

1 Pursuant to the provisions of the Act and the Ordinance, the principal of and interest
2 on this bond and all other bonds of said issue, [including the Sewage Works Refunding
3 Revenue Bonds of 20__, Series __ ("Series __ Bonds")] and any bonds hereafter issued
4 on a parity therewith are payable solely from the Sewage Works Sinking Fund continued by
5 the Ordinance ("Sinking Fund") to be provided from the Net Revenues (defined as the gross
6 revenues after deduction only for the payment of the reasonable expenses of operation,
7 repair and maintenance) of the sewage works of the City. This bond and the issue of which
8 it is a part rank on a parity with the Outstanding Bonds as defined in the Ordinance [and the
9 Series __ Bonds].

10 Pursuant to the Ordinance and the Escrow Agreement defined therein, the City has
11 set aside securities (purchased from proceeds of the bonds of this issue and funds on hand
12 of the sewage works), and certain cash in a Trust Account to provide payment of the
13 principal of and interest [and redemption premium] on the Refunded Bonds by the purchase
14 of obligations of the United States of America.

15 The City irrevocably pledges the entire Net Revenues of the sewage works to the
16 prompt payment of the principal of and interest on the bonds authorized by the Ordinance,
17 of which this is one, and any bonds ranking on a parity therewith, including the Outstanding
18 Bonds, [and the Series __ Bonds] to the extent necessary for that purpose, and covenants
19 that it will cause to be fixed, maintained and collected such rates and charges for services
20 rendered by the utility as are sufficient in each year for the payment of the proper and
21 reasonable expenses of Operation and Maintenance (as defined in the Financial Assistance
22 Agreement as defined in the Ordinance), of the sewage works and for the payment of the
23 sums required to be paid into the Sinking Fund under the provisions of the Act and the
24 Ordinance. If the City or the proper officers thereof shall fail or refuse to so fix, maintain
25 and collect such rates or charges, or if there be a default in the payment of the interest on or
26 principal of this bond, the owner of this bond shall have all of the rights and remedies
27 provided for in the Act, including the right to have a receiver appointed to administer the
28 works and to charge and collect rates sufficient to provide for the payment of this bond and
29 the interest hereon.

30 The City further covenants that it will set aside and pay into its Sinking Fund
monthly, as available, or more often if necessary, a sufficient amount of the Net Revenues
of the works for payment of (a) the interest on all bonds which by their terms are payable
from the revenues of the sewage works, as such interest shall fall due, (b) the necessary
fiscal agency charges for paying bonds and interest, (c) the principal of all bonds which by
their terms are payable from the revenues of the sewage works, as such principal shall fall
due, and (d) an additional amount as a margin of safety to [create and] maintain the debt
service reserve required by the Ordinance. Such required payments shall constitute a first
charge upon all the Net Revenues of the sewage works, on a parity with the Outstanding
Bonds [and the Series __ Bonds].

The bonds of this issue maturing on and after August 1, 2021, are redeemable at the
option of the City on February 1, 2021, or any date thereafter, on thirty (30) days' notice, in
whole or in part, in the order of maturity as determined by the City and by lot within a

1 maturity, at face value, without any premium, plus accrued interest to the date fixed for
2 redemption.

3 [The bonds maturing on _____ 1, 20____ are subject to mandatory sinking fund
4 redemption prior to maturity, at a redemption price equal to the principal amount thereof
5 plus accrued interest, in the years and in the amounts set forth below:

6 _____ Term Bond

7 Year Amount

8 *

9 *Final Maturity]

10 Each Five Thousand Dollars (\$5,000) principal amount shall be considered a
11 separate bond for purposes of optional [and mandatory] redemption. If less than an entire
12 maturity is called for redemption, the bonds to be redeemed shall be selected by lot by the
13 Registrar. [If some bonds are to be redeemed by optional redemption and mandatory
14 sinking fund redemption on the same date, the Registrar shall select by lot the bonds for
15 optional redemption before selecting the bonds by lot for mandatory sinking fund
16 redemption.]

17 Notice of such redemption shall be mailed to the address of the registered owner as
18 shown on the registration records of the City as of the date which is forty-five (45) days
19 prior to such redemption date not less than thirty (30) days prior to the date fixed for
20 redemption unless the notice is waived by the registered owner of this bond. The notice
21 shall specify the date and place of redemption and sufficient identification of the bonds
22 called for redemption. The place of redemption may be determined by the City. Interest on
23 the bonds so called for redemption shall cease on the redemption date fixed in such notice if
24 sufficient funds are available at the place of redemption to pay the redemption price on the
25 date so named.

26 If this bond shall not be presented for payment or redemption on the date fixed
27 therefor, the City may deposit in trust with its depository bank, an amount sufficient to pay
28 such bond or the redemption price, and thereafter the registered owner shall look only to the
29 funds so deposited in trust with said bank for payment and the City shall have no further
30 obligation or liability in respect thereto.

This bond is transferable or exchangeable only upon the books of the City kept for
that purpose at the [principal corporate trust] office of the Registrar by the registered owner
hereof in person, or by his attorney duly authorized in writing, upon surrender of this bond
together with a written instrument of transfer or exchange satisfactory to the Registrar duly
executed by the registered owner, or his attorney duly authorized in writing, and thereupon
a new fully registered bond or bonds in an authorized aggregate principal amount and of the
same maturity, shall be executed and delivered in the name of the transferee or transferees
or to the registered owner, as the case may be, in exchange therefor. The City, the

1 Registrar, the Paying Agent and any other registrar or paying agent for this bond may treat
2 and consider the person in whose name this bond is registered as the absolute owner hereof
3 for all purposes including for the purpose of receiving payment of, or on account of, the
4 principal hereof and interest due hereon.

5 This bond is subject to defeasance prior to redemption or payment as provided in the
6 Ordinance referred to herein. THE OWNER OF THIS BOND, BY THE ACCEPTANCE
7 HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED
8 IN THE ORDINANCE. The Ordinance may be amended without the consent of the
9 owners of the bonds as provided in the Ordinance if the Common Council determines, in its
10 sole discretion, that the amendment shall not adversely affect the rights of any of the
11 owners of the bonds.

12 The bonds maturing in any one year are issuable only in fully registered form in the
13 denomination of \$5,000 or any integral multiple thereof.

14 It is hereby certified and recited that all acts, conditions and things required to be
15 done precedent to and in the execution, issuance and delivery of this bond have been done
16 and performed in regular and due form as provided by law.

17 This bond shall not be valid or become obligatory for any purpose until the
18 certificate of authentication hereon shall have been executed by an authorized
19 representative of the Registrar.

20 IN WITNESS WHEREOF, the City of Fort Wayne, in Allen County, Indiana, has
21 caused this bond to be executed in its corporate name by the manual or facsimile signature
22 of the Mayor, countersigned by the manual or facsimile signature of the Controller, and its
23 corporate seal to be hereunto affixed, imprinted or impressed by any means and attested
24 manually or by facsimile by its Clerk.

25 CITY OF FORT WAYNE, INDIANA

26 By _____
27 Mayor

28 COUNTERSIGNED:

29 By _____
30 Controller

[SEAL]

Attest:

Clerk

1 REGISTRAR'S CERTIFICATE OF AUTHENTICATION

2 This bond is one of the bonds described in the within-mentioned Ordinance.

3
4 _____
5 as Registrar

6 By _____
7 Authorized Representative

8 ASSIGNMENT

9 FOR VALUE RECEIVED the undersigned hereby sells, assigns and
10 transfers unto _____ this bond and all rights
11 thereunder, and hereby irrevocably constitutes and appoints _____
12 _____, attorney, to transfer the within bond in the books kept for the
registration thereof with full power of substitution in the premises.

13 Dated: _____

14 _____
15 NOTICE: Signature(s) must be
16 guaranteed by an eligible guarantor
17 institution participating in a Securities
18 Transfer Association recognized
19 signature guarantee program.

20 _____
21 NOTICE: The signature to this
22 assignment must correspond with the
23 name as it appears on the face of the
24 within bond in every particular, without
25 alteration or enlargement or any change
26 whatsoever.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

EXHIBIT A

[To be completed on a separate page]

[end of bond form]

Interoffice Memo

Date: **October 3, 2012**

To: Common Council Members

From: **Len Poehler**, Deputy Director Business Services, Fort Wayne City Utilities

RE: **Sewer Refunding Bond Authorization**

Herewith you will find an ordinance authorizing the issuance of sewer refunding revenue bonds in an aggregate amount not to exceed \$28,750,000, to be repaid over a period ending no later than August 1, 2023 and at an interest rate not to exceed 4% (four percent).

The proposed refunding bonds provide the funding necessary to refund four existing Sewer Utility Bonds issued in years 2002 and 2003. The bonds may be refunded in total, in series or not at all depending on the bond market conditions at the time of each proposed issuance. Proceeds from the bond will also fund the debt service reserve requirements and other issuance costs. The reason for considering this action now is the fact that the interest rate structure prevailing in the market at this time is much better than in 2002-2003. It is common to refinance long term bonds when the interest rates are favorable. At current bond market interest rates, net savings of between \$1 million and \$2 million are likely.

Umbaugh & Associates, LLP will provide financial advisory services to select the optimal combination, sequence and bond market conditions for this refunding opportunity.

CC: BOW
Kumar Menon
Diane Brown