

1 BILL NO. S-14-07-13

2 SPECIAL ORDINANCE NO. \_\_\_\_\_

3 AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF  
4 FORT WAYNE, INDIANA, AUTHORIZING THE ACQUISITION  
5 AND INSTALLATION OF CERTAIN IMPROVEMENTS TO THE  
6 CITY'S SEWAGE WORKS, THE ISSUANCE AND SALE OF  
7 ADDITIONAL REVENUE BONDS TO PROVIDE FUNDS FOR THE  
8 PAYMENT OF THE COSTS THEREOF, AND THE COLLECTION,  
9 SEGREGATION AND DISTRIBUTION OF THE REVENUES OF  
10 SUCH SEWAGE WORKS AND OTHER RELATED MATTERS

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

16 WHEREAS, the Board has determined and recommended to the Common  
17 Council of the City (the "Common Council") that certain improvements and extensions  
18 to the Sewage Works, as more fully set forth in summary fashion in Exhibit A hereto  
19 and made a part hereof (the "Project"), are necessary; and

20 WHEREAS, the City has employed consulting engineers (the  
21 "Consulting Engineers") to prepare and file plans, specifications, and estimates of the  
22 costs of the Project, which plans, specifications and estimates, to the extent required  
23 by law, have been or will be duly submitted to and approved by all governmental  
24 authorities having jurisdiction thereover, including, without limitation, the Indiana  
25 Department of Environmental Management (the "Department"); and

26 WHEREAS, the Common Council finds that the estimates prepared and  
27 delivered by the Consulting Engineers with respect to the costs (as defined in Indiana  
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1 Code 36-9-23-11) of the Project, and including all costs relating thereto, including the  
2 costs of issuance of bonds and BANs (as hereinafter defined) on account of the financing  
3 of all or a portion thereof, is in the estimated amount of Two Hundred Fifty-seven  
4 Million Four Hundred Seventy Thousand Dollars (\$257,470,000); and  
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6 WHEREAS, the Common Council finds that to provide funds necessary to  
7 pay for the costs of the Project, it will be necessary for the City to issue sewage works  
8 revenue bonds, in one or more series, in an aggregate amount not to exceed Two  
9 Hundred Fifty-seven Million Four Hundred Seventy Thousand Dollars (\$257,470,000)  
10 and, if necessary, bond anticipation notes ("BANs"); and  
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12 WHEREAS, pursuant to Ordinance No. S-129-05 adopted by the  
13 Common Council on August 23, 2005 (the "2005 Bond Ordinance), the City has  
14 heretofore issued revenue bonds payable from the net revenues of the Sewage  
15 Works, designated as "Sewage Works Revenue Bonds, Series 2005" (the "2005  
16 Bonds"), outstanding after August 1, 2013, in the amount of \$26,850,000, bearing  
17 interest at various rates and maturing in various amounts annually on August 1 in the  
18 years 2014 to and including 2025; and  
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20 WHEREAS, pursuant to Ordinance No. 5-07-05-26 adopted by the  
21 Common Council on June 12, 2007 (the "2007 Bond Ordinance"), the City has  
22 heretofore issued revenue bonds payable from the net revenues of the Sewage  
23 Works, designated as "Sewage Works Revenue Bonds, Series 2007" (the "2007  
24 Bonds"), outstanding after August 1, 2013, in the amount of \$18,960,000, bearing  
25 interest at various rates and maturing in various amounts annually on August 1 in the  
26 years 2014 to and including 2027; and  
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1                   WHEREAS, pursuant to Ordinance No. S-65-09 adopted by the Common  
2 Council on June 9, 2009 (the "2009 Bond Ordinance"), the City has heretofore issued  
3 revenue bonds payable from the net revenues of the Sewage Works, designated as  
4 "Sewage Works Revenue Bonds of 2009, Series A" (the "2009A Bonds"),  
5 outstanding after August 1, 2013, in the amount of \$4,171,733, bearing interest at the  
6 rate of 0.16% and maturing in various amounts annually on August 1 in the years  
7 2014 to and including 2030; and  
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9                   WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
10 issued revenue bonds payable from the net revenues of the Sewage Works,  
11 designated as "Sewage Works Revenue Bonds of 2009, Series B" (the "2009B  
12 Bonds"), outstanding after August 1, 2013, in the amount of \$26,086,978, bearing  
13 interest at the rate of 4.16% and maturing in various amounts annually on August 1 in  
14 the years 2014 to and including 2030; and  
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16                   WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
17 issued revenue bonds payable from the net revenues of the Sewage Works,  
18 designated as "Sewage Works Revenue Bonds of 2010" (the "2010 Bonds"),  
19 outstanding after August 1, 2013, in the amount of \$39,330,000, bearing interest at  
20 various rates and maturing in various amounts annually on August 1 in the years 2014  
21 to and including 2030; and  
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23                   WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
24 issued revenue bonds payable from the net revenues of the Sewage Works,  
25 designated as "Sewage Works Revenue Bonds of 2011, Series A" (the "2011A  
26 Bonds"), outstanding after August 1, 2013, in the amount of \$38,100,000, bearing  
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1 interest at the rate of 2.80% and maturing in various amounts annually on August 1 in  
2 the years 2015 to and including 2026; and

3 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
4 issued revenue bonds payable from the net revenues of the Sewage Works,  
5 designated as "Sewage Works Revenue Bonds of 2011, Series B" (the "2011B  
6 Bonds"), outstanding after August 1, 2013, in the amount of \$30,997,000, bearing  
7 interest at the rate of 2.29% and maturing in various amounts annually on August 1 in  
8 the years 2014 to and including 2031; and

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10 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
11 issued revenue bonds payable from the net revenues of the Sewage Works,  
12 designated as "Sewage Works Revenue Bonds of 2012, Series A" (the "2012A  
13 Bonds"), outstanding after August 1, 2013, in the amount of \$9,962,000, bearing  
14 interest at the rate of 1.78% and maturing in various amounts annually on August 1 in  
15 the years 2014 to and including 2032; and

16  
17 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
18 issued revenue bonds payable from the net revenues of the Sewage Works,  
19 designated as "Sewage Works Revenue Bonds of 2012, Series B" (the "2012B  
20 Bonds"), outstanding after August 1, 2013, in the amount of \$15,530,000, bearing  
21 interest at various rates and maturing in various amounts annually on August 1 in the  
22 years 2015 to and including 2027; and

23  
24 WHEREAS, pursuant to Ordinance No. S-105-12 adopted by the  
25 Common Council on October 23, 2012 (the "2012 Bond Ordinance"), the City has  
26 heretofore issued revenue bonds payable from the net revenues of the Sewage  
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1 Works, designated as "Sewage Works Refunding Revenue Bonds of 2012" (the  
2 "2012 Refunding Bonds"), outstanding after August 1, 2013, in the amount of  
3 \$18,175,000, bearing interest at various rates and maturing in various amounts  
4 annually on August 1 in the years 2014 to and including 2022; and  
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6 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
7 issued revenue bonds payable from the net revenues of the Sewage Works,  
8 designated as "Sewage Works Revenue Bonds of 2013, Series A" (the "2013A  
9 Bonds"), outstanding after August 1, 2013, in the amount of \$32,355,000, bearing  
10 interest at the rate of 1.95% and maturing in various amounts annually on August 1 in  
11 the years 2014 to and including 2024; and  
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13 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
14 issued revenue bonds payable from the net revenues of the Sewage Works,  
15 designated as "Sewage Works Revenue Bonds of 2013, Series B" (the "2013B  
16 Bonds"), outstanding after August 1, 2013, in the amount of \$42,260,000, bearing  
17 interest at various rates and maturing in various amounts annually on August 1 in the  
18 years 2025 to and including 2033; and  
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20 WHEREAS, pursuant to the 2012 Bond Ordinance, the City has heretofore  
21 issued revenue bonds payable from the net revenues of the Sewage Works,  
22 designated as "Sewage Works Refunding Revenue Bonds of 2013" (the "2013  
23 Refunding Bonds"), outstanding after August 1, 2013, in the amount of \$6,835,000,  
24 bearing interest at various rates and maturing in various amounts annually on August  
25 1 in the years 2014 to and including 2018; and  
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1           WHEREAS, pursuant to the 2009 Ordinance (and with the 2005 Bond  
2 Ordinance, the 2007 Bond Ordinance and the 2012 Bond Ordinance, collectively, the  
3 "Prior Ordinances"), the City will have issued revenue bonds payable from the net  
4 revenues of the Sewage Works, designated as "Sewage Works Revenue Bonds of  
5 2014, Series A" (the "2014A Bonds" and with the 2005 Bonds, the 2007 Bonds, the  
6 2009A Bonds, the 2009B Bonds, the 2010 Bonds, the 2011A Bonds, the 2011B Bonds,  
7 the 2012A Bonds, the 2012B Bonds, the 2012 Refunding Bonds, 2013A Bonds, the  
8 2013B Bonds and the 2013 Refunding Bonds, collectively, the "Prior Bonds"),  
9 outstanding after August 1, 2014, in the amount of \$17,000,000, bearing interest at the  
10 rate of 2.35% and maturing in various amounts annually on August 1 in the years  
11 2015 to and including 2033; and  
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14           WHEREAS, the Prior Bonds each rank on a parity with each other and each  
15 constitute a first charge against the net revenues of the Sewage Works; and  
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17           WHEREAS, Section 16 of the 2005 Ordinance, Section 16 of the 2007  
18 Ordinance, Section 17 of the 2009 Ordinance and Section 18 of the 2012 Bond  
19 Ordinance, each authorize the issuance of additional revenue bonds ranking on a  
20 parity basis with the Prior Bonds for such purposes, so long as certain conditions are  
21 met; and  
22

23           WHEREAS, the Common Council has been advised by the City's financial  
24 advisor and now finds that all conditions precedent to the adoption of an ordinance  
25 authorizing the issuance of revenue bonds on a parity basis with the Prior Bonds to  
26 provide the necessary funds to be applied to the costs of the Project and all  
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1 authorized costs relating thereto have been complied with in accordance with the  
2 provisions of the Act and the Prior Ordinances; and

3  
4 WHEREAS, the City has previously purchased the sewage works facilities of  
5 the Town of Zanesville and, in connection with such purchase, assumed the obligation  
6 of payment for certain outstanding sewage works revenue bonds of the Town of  
7 Zanesville ("Zanesville Bonds"); the City's obligation to pay the principal of and  
8 interest on the Zanesville Bonds is a charge upon the net revenues of the City's Sewage  
9 Works, but payment of the Zanesville Bonds is junior and subordinate to the payment of  
10 the Prior Bonds and any bonds issued in the future on a parity with the Prior Bonds,  
11 including the bonds issued under this ordinance; and

12  
13 WHEREAS, the City shall enter into one or more Financial Assistance  
14 Agreements with the Indiana Finance Authority ("Authority") as part of its wastewater  
15 loan program established and existing pursuant to IC 4-4-11 and IC 13-18-13 ("SRF  
16 Program"), pertaining to all or a portion of the Project and the financing thereof  
17 ("Financial Assistance Agreement"); and

18  
19 WHEREAS, the Common Council desires to authorize the issuance of BANs  
20 hereunder, if necessary, in one or more series, payable solely from the proceeds of the  
21 bonds issued hereunder and to authorize the refunding of the BANs, if issued; and

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23 WHEREAS, the Common Council therefore seeks to authorize the issuance of  
24 revenue bonds and BANs to finance the Project pursuant to the Act and the sale of  
25 one or more series of such revenue bonds and one or more series of BANs pursuant to  
26 the provisions of the Act, subject to and dependent upon the terms and conditions  
27 hereinafter set forth; and

1           WHEREAS, the City reasonably expects to reimburse certain preliminary costs  
2 of the Project with proceeds of debt to be incurred by the City in an amount not to  
3 exceed \$257,470,000; and  
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5           WHEREAS, the Common Council has been advised that it may be cost efficient  
6 to purchase municipal bond insurance and one or more debt service reserve sureties for  
7 the bonds authorized herein;

8           NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
9 THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:  
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11           Section 1.     Authorization of the Project. The City, acting by and through the  
12 Board and as the owner and operator of the Sewage Works for the collection and  
13 treatment of sewage and other wastes, hereby orders, authorizes and directs the Board to  
14 proceed with the Project, pursuant to the Act and in accordance with the plans,  
15 specifications and cost estimates prepared and filed with the Board by the Consulting  
16 Engineers, which plans, specifications and cost estimates are hereby adopted and  
17 approved and, by reference, incorporated fully into this Ordinance, and two copies of  
18 which are now on file or upon completion, shall be placed on file, in the office of the  
19 Board and open for public inspection. The actions of the Board in connection with the  
20 Project are hereby authorized, approved, ratified and confirmed.  
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22           Where used in this ordinance, the term "City" shall be construed also to include  
23 any department, board, commission or officer or officers of the City or of any City  
24 department, board or commission. The terms "Sewage Works," "sewage works,"  
25 "works" and similar terms used in this ordinance shall be construed to mean and include  
26 the Treatment Works, as defined in the Financial Assistance Agreement entered into  
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1 between the City and the Authority, the existing structures and property of the Sewage  
2 Works and all enlargements, improvements, extensions and additions thereto, and  
3 replacements thereof, now or subsequently constructed or acquired, from the  
4 proceeds of the bonds authorized herein or otherwise. Such Project shall be  
5 constructed and the bonds and BANs herein authorized shall be issued pursuant to  
6 the provisions of this ordinance and the Act.  
7

8 Section 2. Issuance of BANs and Bonds; Reimbursement. (a) The City  
9 hereby authorizes the Controller of the City ("Controller") to prepare and issue, if  
10 necessary, the BANs for the purpose of procuring interim financing to apply on the cost  
11 of the Project. The BANs may be issued, in one or more series, in an aggregate amount  
12 not to exceed Two Hundred Fifty-seven Million Four Hundred Seventy Thousand  
13 Dollars (\$257,470,000) to be designated "[Taxable] Sewage Works Bond Anticipation  
14 Notes of \_\_\_\_\_" (to be completed with the year in which issued and  
15 appropriate series designation, if any). Each series of BANs shall be sold at not less  
16 than par value if sold to the Authority as part of its SRF Program or not less than 99%  
17 of the par value thereof if sold to any other purchaser, shall be numbered consecutively  
18 from 1 upward, shall be in any multiple of One Dollar (\$1), as designated in the  
19 Purchase Agreement (as hereinafter defined), shall be dated as of the date of delivery  
20 thereof, and shall bear interest at a rate not to exceed 6% per annum (the exact rate or  
21 rates to be determined through negotiations with the purchaser of the BANs) payable  
22 upon maturity. Each series of BANs will mature no later than five (5) years after their  
23 date of delivery. The BANs are subject to renewal or extension at an interest rate or  
24 rates not to exceed 6% per annum (the exact rate or rates to be negotiated with the  
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1 purchaser of the BANs). The term of the BANs and all renewal BANs may not exceed  
2 five years from the date of delivery of the initial BANs. The BANs shall be registered  
3 in the name of the purchasers thereof. Notwithstanding any thing in this ordinance to  
4 the contrary, any series of BANs issued hereunder, may bear interest that is taxable and  
5 included in the gross income of the owners thereof. If any such BANs are issued on a  
6 taxable basis, the designated name shall include the term "Taxable" as the first word in  
7 the designated name.  
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9 The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond  
10 Bank, pursuant to IC 4-4-11 and IC 13-18-13 if sold to the Authority, or pursuant to IC  
11 5-1-14-5 if sold to a financial institution or any other purchaser. The City shall pledge  
12 to the payment of the principal of and interest on the BANs the proceeds from the  
13 issuance of the bonds pursuant to and in the manner prescribed by the Act. The bonds  
14 will be payable out of and constitute a first charge against the Net Revenues (herein  
15 defined as gross revenues after deduction only for the payment of the reasonable  
16 expenses of operation, repair and maintenance, excluding transfers for payments in lieu  
17 of property taxes ("PILOTs")) of the Sewage Works of the City, on a parity with the  
18 Prior Bonds, subject to such bonds meeting the parity conditions set forth in the Prior  
19 Ordinances.  
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22 (b) In accordance with the Act and for the purpose of providing funds with  
23 which to pay the costs of the Project, providing funds for the hereinafter defined  
24 Reserve Accounts, all authorized costs relating to the Project and the financing,  
25 including the costs of issuance of the Bonds, as hereinafter defined, on account thereof,  
26 and any premiums for bond insurance and debt service reserve sureties, the City shall  
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1 issue and sell its sewage works revenue bonds, in one or more series, in the aggregate  
2 principal amount not to exceed Two Hundred Fifty-seven Million Four Hundred  
3 Seventy Thousand Dollars (\$257,470,000). The principal of, redemption premium, if  
4 any, and interest on the Bonds shall be payable, on a parity basis with the Prior Bonds,  
5 solely out of the Sewage Works Sinking Fund referred to below.  
6

7 The Bonds shall be issued in one or more series designated as the  
8 "[Taxable]Sewage Works Revenue Bonds of 20\_\_\_\_\_" to be completed with the year in  
9 which issued and the appropriate series designation, if any (the "Bonds"). Each series  
10 of Bonds shall be issued as fully registered bonds in the denomination of One Dollar  
11 (\$1) or integral multiples thereof if sold to the Authority as part of its SRF Program, or  
12 in denominations of \$5,000 or integral multiples thereof if sold to any other purchaser.  
13 Each series of Bonds shall be sold at a price not less than par value if sold to the  
14 Authority as part of its SRF Program or not less than 98% of the par value thereof if sold  
15 to any other purchaser. The Bonds shall be numbered consecutively from 1 up and  
16 shall bear interest at a rate not exceeding eight percent (8%) per annum, the exact rate  
17 or rates to be determined by bidding or through negotiation with the Authority through  
18 its SRF Program. Interest on the Bonds shall be calculated on the basis of twelve (12)  
19 thirty (30)-day months for a three hundred and sixty (360)-day year and shall be payable  
20 semiannually on February 1 and August 1 in each year, commencing on the first  
21 February 1 or the first August 1, following the original date of the Bonds as determined  
22 by the Controller, with the advice of the City's financial advisor. The principal of the  
23 Bonds shall mature annually on August 1 of each year, provided that beginning on  
24 February 1, 2034, principal shall be payable semiannually on February 1 and August 1.  
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1 Such Bonds shall mature over a period not to exceed thirty (30) years and in amounts  
2 that either (i) produce as level annual debt service as practicable with \$5,000  
3 denominations, taking into account the annual debt service on the Prior Bonds and all  
4 other series of Bonds issued under this ordinance, (ii) produce forecasted coverage to  
5 allow the successful marketing of the Bonds, or (iii). allow the City to meet the  
6 coverage and/or amortization requirements of the SRF Program. Such debt service  
7 schedule for any Bonds sold to the Authority as part of its SRF Program shall be  
8 finalized and set forth in the Financial Assistance Agreement and shall provide a final  
9 maturity ending no later than the number of years after substantial completion of the  
10 Project as determined and set forth in the Financial Assistance Agreement.  
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13 All or a portion of the Bonds may be issued as one or more term bonds, upon  
14 election of the purchaser. Such term bonds shall have a stated maturity or maturities on  
15 February 1 or August 1 in the years as determined by the successful bidder, but in no  
16 event later than the final serial maturity date of the Bonds as determined in the above  
17 paragraph. The term bonds shall be subject to mandatory sinking fund redemption and  
18 final payment(s) at maturity at 100% of the principal amount thereof, plus accrued  
19 interest to the redemption date, on principal payment dates which are hereinafter  
20 determined in accordance with the above paragraph.  
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22 Each series of Bonds shall rank on a parity with the other for all purposes,  
23 including the pledge of Net Revenues under this ordinance.  
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25 The Bonds shall bear an original issue date which shall be the date of issuance  
26 of the Bonds or the first day of the month in which the Bonds are delivered, as  
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1 determined by the Controller, with the advice of the City's financial advisor, and each  
2 Bond shall also bear the date of its authentication.

3 Notwithstanding anything in this ordinance to the contrary, any series of Bonds  
4 issued hereunder, may bear interest that is taxable and included in the gross income of  
5 the owners thereof. If any such Bonds are issued on a taxable basis, the designated  
6 name shall include the term "Taxable" as the first word in the designated name.  
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8 Notwithstanding anything contained herein, the City may accept any other forms  
9 of financial assistance, as and if available, from the SRF Program (including without  
10 limitation any forgivable loans, grants or other assistance whether available as an  
11 alternative to any Bond or BAN related provision otherwise provided for herein or as a  
12 supplement or addition thereto). If required by the SRF Program to be eligible for such  
13 financial assistance, one or more of the series of the Bonds issued hereunder may be  
14 issued on a basis such that the payment of the principal of or interest on such series of  
15 Bonds is junior and subordinate to the payment of the principal of and interest on other  
16 series of Bonds issued hereunder (and/or any other revenue bonds secured by a pledge  
17 of Net Revenues, whether now outstanding or hereafter issued), all as provided by the  
18 terms of such series of Bonds as modified pursuant to this authorization. Such financial  
19 assistance, if any, shall be as provided in the Financial Assistance Agreement and the  
20 Bonds of each series of Bonds issued hereunder (including any modification made  
21 pursuant to the authorization in this paragraph to the form of Bond otherwise contained  
22 herein).  
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25 (c) The Mayor and Controller are authorized, on behalf of the City, to select  
26 and appoint a qualified financial institution to serve as Registrar and Paying Agent for  
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1 the Bonds, which Registrar is hereby charged with the responsibility of authenticating  
2 the Bonds ("Registrar" or "Paying Agent"). The Controller is hereby authorized, on  
3 behalf of the Board, to enter into such agreements or understandings with such  
4 institution as will enable the institution to perform the services required of a Registrar  
5 and Paying Agent. The Controller is further authorized to pay such fees as the  
6 institution may charge for the services it provides as Registrar and Paying Agent, and  
7 such fees may be paid from the Sewage Works Sinking Fund established to pay the  
8 principal of and interest on the Bonds and fiscal agency charges.  
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10 As to the BANS and as to the Bonds, if any purchaser does not object to such  
11 designation, the Controller may serve as Registrar and Paying Agent and is hereby  
12 charged with the duties of a Registrar and Paying Agent.  
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14 If any Bonds or BANs are sold to the Authority as part of its SRF Program, the  
15 principal of and interest thereon shall be paid by wire transfer to such financial  
16 institution if and as directed by the Authority on the due date of such payment or, if  
17 such due date is a day when financial institutions are not open for business, on the  
18 business day immediately after such due date. So long as the Authority is the owner of  
19 the Bonds or BANs, such Bonds and BANs shall be presented for payment as directed  
20 by the Authority.  
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22 If wire transfer payment is not required and for any Bonds not sold to the  
23 Authority, the principal of the Bonds shall be payable at the principal office of the  
24 Paying Agent and all payments of interest on the Bonds shall be paid by check mailed  
25 one business day prior to the interest payment date to the registered owners thereof, as  
26 the names appear as of the fifteenth day of the month preceding the interest payment  
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1 date ("Record Date"), at the addresses as they appear on the registration books kept by  
2 the Registrar or at such other address as is provided to the Paying Agent in writing by  
3 such registered owner on or before such Record Date. If payment of principal or  
4 interest is made to a depository, payment shall be made by wire transfer on the payment  
5 date in same-day funds. If the payment date occurs on a date when financial institutions  
6 are not open for business, the wire transfer shall be made on the next succeeding  
7 business day. The Paying Agent shall be instructed to wire transfer payments by 1:00  
8 p.m. (New York City time) so such payments are received at the depository by 2:30  
9 p.m. (New York City time).  
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11 All payments on the BANs and Bonds shall be made in any coin or currency of  
12 the United States of America, which on the date of such payment, shall be legal tender  
13 for the payment of public and private debts.  
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15 Each Bond shall be transferable or exchangeable only upon the books of the  
16 City kept for that purpose at the principal office of the Registrar, by the registered  
17 owner thereof in person, or by its attorney duly authorized in writing, upon surrender of  
18 such Bond together with a written instrument of transfer or exchange satisfactory to the  
19 Registrar duly executed by the registered owner or its attorney duly authorized in  
20 writing, and thereupon a new fully registered Bond or Bonds in the same aggregate  
21 principal amount and of the same maturity shall be executed and delivered in the name  
22 of the transferee or transferees or the registered owner, as the case may be, in exchange  
23 therefor. The costs of such transfer or exchange shall be borne by the City. The City  
24 and the Registrar and Paying Agent for the Bonds may treat and consider the person in  
25 whose name such Bonds are registered as the absolute owner thereof for all purposes  
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1 including for the purpose of receiving payment of, or on account of, the principal  
2 thereof and interest due thereon.

3 The Registrar and Paying Agent may at any time resign as Registrar and Paying  
4 Agent upon giving 30 days' notice in writing to the City and by first class mail to each  
5 registered owner of the Bonds then outstanding, and such resignation will take effect at  
6 the end of such 30 day period or upon the earlier appointment of a successor registrar  
7 and paying agent by the City. Any such notice to the City may be served personally or  
8 sent by registered mail. The Registrar and Paying Agent may be removed at any time  
9 as Registrar and Paying Agent by the City, in which event the City may appoint a  
10 successor registrar and paying agent. The City shall notify each registered owner of the  
11 Bonds then outstanding by first class mail of the removal of the Registrar and Paying  
12 Agent. Notices to the registered owners of the Bonds shall be deemed to be given when  
13 mailed by first class mail to the addresses of such registered owners as they appear on  
14 the registration books kept by the Registrar.

15 Upon the appointment of any successor registrar and paying agent by the City,  
16 the Controller is authorized and directed to enter into such agreements and  
17 understandings with such successor registrar and paying agent as will enable the  
18 institution to perform the services required of a registrar and paying agent for the  
19 Bonds. The Controller is further authorized to pay such fees as the successor registrar  
20 and paying agent may charge for the services it provides as registrar and paying agent  
21 and such fees may be paid from the Sewage Works Sinking Fund as set forth in Section  
22 12 hereof. Any predecessor registrar and paying agent shall deliver all of the Bonds and  
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1 any cash or investments in its possession with respect thereto, together with the  
2 registration books, to the successor registrar and paying agent.

3 Interest on any Bonds sold to the Authority as part of its SRF Program shall be  
4 payable from the date or dates of payments made by the Authority as part of its  
5 purchase of the Bonds as set forth in the Financial Assistance Agreement. Interest on  
6 all other Bonds shall be payable from the interest payment date to which interest has  
7 been paid next preceding the authentication date of the Bonds unless the Bonds are  
8 authenticated after the Record Date and on or before such interest payment date in  
9 which case they shall bear interest from such interest payment date, or unless the Bonds  
10 are authenticated on or before the Record Date preceding the first interest payment date,  
11 in which case they shall bear interest from the original date until the principal shall be  
12 fully paid.

13  
14 (d) The City has determined that it may be beneficial to have the Bonds held  
15 by a central depository system pursuant to an agreement between the City and The  
16 Depository Trust Company, New York, New York ("Depository Trust Company") and  
17 have transfers of the Bonds effected by book-entry on the books of the central  
18 depository system ("Book Entry System"). The Bonds may be initially issued in the  
19 form of a separate single authenticated fully registered bond for the aggregate principal  
20 amount of each separate maturity of the Bonds. In such case, upon initial issuance, the  
21 ownership of such Bonds shall be registered in the register kept by the Registrar in the  
22 name of CEDE & CO., as nominee of the Depository Trust Company.

23  
24 With respect to the Bonds registered in the register kept by the Registrar in the  
25 name of CEDE & CO., as nominee of the Depository Trust Company, the City and the  
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1       Paying Agent shall have no responsibility or obligation to any other holders or owners  
2       (including any beneficial owner ("Beneficial Owner")) of the Bonds with respect to (i)  
3       the accuracy of the records of the Depository Trust Company, CEDE & CO., or any  
4       Beneficial Owner with respect to ownership questions, (ii) the delivery to any  
5       bondholder (including any Beneficial Owner) or any other person, other than the  
6       Depository Trust Company, of any notice with respect to the Bonds including any  
7       notice of redemption, or (iii) the payment to any bondholder (including any Beneficial  
8       Owner) or any other person, other than the Depository Trust Company, of any amount  
9       with respect to the principal of, or premium, if any, or interest on the Bonds except as  
10      otherwise provided herein.  
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12  
13       No person other than the Depository Trust Company shall receive an  
14      authenticated Bond evidencing an obligation of the City to make payments of the  
15      principal of and premium, if any, and interest on the Bonds pursuant to this ordinance.  
16      The City and the Registrar and Paying Agent may treat as and deem the Depository  
17      Trust Company or CEDE & CO. to be the absolute bondholder of each of the Bonds for  
18      the purpose of (i) payment of the principal of and premium, if any, and interest on such  
19      Bonds; (ii) giving notices of redemption and other notices permitted to be given to  
20      bondholders with respect to such Bonds; (iii) registering transfers with respect to such  
21      Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or  
22      by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying  
23      Agent shall pay all principal of and premium, if any, and interest on the Bonds only to  
24      or upon the order of the Depository Trust Company, and all such payments shall be  
25      valid and effective fully to satisfy and discharge the City's and the Paying Agent's  
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1 obligations with respect to principal of and premium, if any, and interest on the Bonds  
2 to the extent of the sum or sums so paid. Upon delivery by the Depository Trust  
3 Company to the City of written notice to the effect that the Depository Trust Company  
4 has determined to substitute a new nominee in place of CEDE & CO., and subject to the  
5 provisions herein with respect to consents, the words "CEDE & CO." in this resolution  
6 shall refer to such new nominee of the Depository Trust Company. Notwithstanding  
7 any other provision hereof to the contrary, so long as any Bond is registered in the name  
8 of CEDE & CO., as nominee of the Depository Trust Company, all payments with  
9 respect to the principal of and premium, if any, and interest on such Bonds and all  
10 notices with respect to such Bonds shall be made and given, respectively, to the  
11 Depository Trust Company as provided in a representation letter from the City to the  
12 Depository Trust Company.  
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15 Upon receipt by the City of written notice from the Depository Trust Company  
16 to the effect that the Depository Trust Company is unable or unwilling to discharge its  
17 responsibilities and no substitute depository willing to undertake the functions of the  
18 Depository Trust Company hereunder can be found which is willing and able to  
19 undertake such functions upon reasonable and customary terms, then the Bonds shall no  
20 longer be restricted to being registered in the register of the City kept by the Registrar in  
21 the name of CEDE & CO., as nominee of the Depository Trust Company, but may be  
22 registered in whatever name or names the bondholders transferring or exchanging the  
23 Bonds shall designate, in accordance with the provisions of this resolution.  
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26 If the City determines that it is in the best interest of the bondholders that they  
27 be able to obtain certificates for the fully registered Bonds, the City may notify the  
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1           Depository Trust Company and the Registrar, whereupon the Depository Trust  
2           Company will notify the Beneficial Owners of the availability through the Depository  
3           Trust Company of certificates for the Bonds. In such event, the Registrar shall prepare,  
4           authenticate, transfer and exchange certificates for the Bonds as requested by the  
5           Depository Trust Company and any Beneficial Owners in appropriate amounts, and  
6           whenever the Depository Trust Company requests the City and the Registrar to do so,  
7           the Registrar and the City will cooperate with the Depository Trust Company by taking  
8           appropriate action after reasonable notice (i) to make available one or more separate  
9           certificates evidencing the fully registered Bonds of any Beneficial Owner's Depository  
10          Trust Company account or (ii) to arrange for another securities depository to maintain  
11          custody of certificates for and evidencing the Bonds.  
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14           If the Bonds shall no longer be restricted to being registered in the name of the  
15          Depository Trust Company, the Registrar shall cause the Bonds to be printed in blank in  
16          such number as the Registrar shall determine to be necessary or customary; provided,  
17          however, that the Registrar shall not be required to have such Bonds printed until it  
18          shall have received from the City indemnification for all costs and expenses associated  
19          with such printing.  
20

21           In connection with any notice or other communication to be provided to  
22          bondholders by the City or the Registrar with respect to any consent or other action to  
23          be taken by bondholders, the City or the Registrar, as the case may be, shall establish a  
24          record date for such consent or other action and give the Depository Trust Company  
25          notice of such record date not less than fifteen (15) calendar days in advance of such  
26          record date to the extent possible.  
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1           So long as the Bonds are registered in the name of the Depository Trust  
2 Company or CEDE & CO. or any substitute nominee, the City and the Registrar and  
3 Paying Agent shall be entitled to request and to rely upon a certificate or other written  
4 representation from the Beneficial Owners of the Bonds or from the Depository Trust  
5 Company on behalf of such Beneficial Owners stating the amount of their respective  
6 beneficial ownership interests in the Bonds and setting forth the consent, advice,  
7 direction, demand or vote of the Beneficial Owners as of a record date selected by the  
8 Registrar and the Depository Trust Company, to the same extent as if such consent,  
9 advice, direction, demand or vote were made by the bondholders for purposes of this  
10 ordinance and the City and the Registrar and Paying Agent shall for such purposes treat  
11 the Beneficial Owners as the bondholders. Along with any such certificate or  
12 representation, the Registrar may request the Depository Trust Company to deliver, or  
13 cause to be delivered, to the Registrar a list of all Beneficial Owners of the bonds,  
14 together with the dollar amount of each Beneficial Owner's interest in the Bonds and  
15 the current addresses of such Beneficial Owners.  
16

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18           (e) In the event any Bond is mutilated, lost, stolen or destroyed, the City  
19 may cause to be executed and the Registrar may authenticate a new Bond of like date,  
20 maturity, series and denomination as the mutilated, lost, stolen or destroyed Bond,  
21 which new Bond shall be marked in a manner to distinguish it from the Bond for which  
22 it was issued; provided, that in the case of any mutilated Bond, such mutilated Bond  
23 shall first be surrendered to the Registrar, and in the case of any lost, stolen or  
24 destroyed Bond there shall be first furnished to the Registrar evidence of such loss,  
25 theft or destruction satisfactory to the City and the Registrar, together with indemnity  
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1 satisfactory to them. In the event that any such mutilated, lost, stolen or destroyed  
2 Bond shall have matured or been called for redemption, instead of causing to be issued  
3 a duplicate Bond, the Registrar and Paying Agent may pay the same upon surrender of  
4 the mutilated Bond or upon satisfactory indemnity and proof of loss, theft or destruction  
5 in the case of a lost, stolen or destroyed Bond. The City and the Registrar and Paying  
6 Agent may charge the owner of any such Bond with their reasonable fees and expenses  
7 in connection with the above. Every substitute Bond issued by reason of any Bond  
8 being lost, stolen or destroyed shall, with respect to such Bond, constitute a substitute  
9 contractual obligation of the City pursuant to this ordinance, whether or not the lost,  
10 stolen or destroyed Bond shall be found at any time, and shall be entitled to all the  
11 benefits of this ordinance, equally and proportionately with any and all other Bonds  
12 duly issued hereunder.  
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14  
15 In the event that any Bond is not presented for payment or redemption on the  
16 date established therefor, the City may deposit in trust with the Paying Agent an amount  
17 sufficient to pay such Bond or the redemption price thereof, as appropriate, and  
18 thereafter the owner of such Bond shall look only to the funds so deposited in trust with  
19 the Paying Agent for payment and the City shall have no further obligation or liability  
20 with respect thereto.  
21

22 (f) The City hereby declares its official intent to complete the Project; to  
23 reimburse certain costs of completing the Project with proceeds of debt to be incurred  
24 by the City, and to issue debt not exceeding \$257,470,000 in aggregate principal  
25 amount for purposes of paying and reimbursing costs of the Project.  
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1           Section 3.     Redemption of BANs and Bonds. (a) For any Bonds not sold to  
2 the Authority as part of its SRF Program, the Bonds are redeemable at the option of the  
3 City, but no sooner than ten (10) years from their date of issuance, on thirty (30) days'  
4 notice, in whole or in part, in the order of maturity as determined by the City and by lot  
5 within a maturity, at face value, together with a premium no greater than 2%, plus in  
6 each case accrued interest to the date fixed for redemption. The exact redemption  
7 features shall be determined by the Controller with the advice of the City's financial  
8 advisor prior to the sale of the Bonds.  
9

10           For any Bonds sold to the Authority as part of its SRF Program, such Bonds are  
11 redeemable at the option of the City, but no sooner than ten (10) years after their date of  
12 delivery, and thereafter on any date, on sixty (60) days' notice, in whole or in part, in  
13 inverse order of maturity, and by lot within a maturity, at face value together with a  
14 premium no greater than 2%, plus accrued interest to the date fixed for redemption;  
15 provided, however, if the Bonds are sold to the SRF Program and registered in the name  
16 of the Authority, the Bonds shall not be redeemable at the option of the City unless and  
17 until consented to by the Authority. The exact redemption dates and premiums shall be  
18 established by the Controller, with the advice of the City's financial advisor, prior to the  
19 sale of the Bonds.  
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22           If any Bond is issued as a term bond, the Paying Agent shall credit against the  
23 mandatory sinking fund requirement for the Bonds maturing as term bonds, and  
24 corresponding mandatory redemption obligation, in the order determined by the City,  
25 any Bonds maturing as term bonds which have previously been redeemed (otherwise  
26 than as a result of a previous mandatory redemption requirement) or delivered to the  
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1 Registrar for cancellation or purchased for cancellation by the Paying Agent and not  
2 theretofore applied as a credit against any redemption obligation. Each Bond maturing  
3 as a term bond so delivered or canceled shall be credited by the Paying Agent at 100%  
4 of the principal amount thereof against the mandatory sinking fund obligation on such  
5 mandatory sinking fund date, and any excess of such amount shall be credited on future  
6 redemption obligations, and the principal amount of the Bonds to be redeemed by  
7 operation of the mandatory sinking fund requirement shall be accordingly reduced;  
8 provided, however, the Paying Agent shall credit only such Bonds maturing as term  
9 bonds to the extent received on or before forty-five (45) days preceding the applicable  
10 mandatory redemption date.  
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13 Each authorized denomination amount shall be considered a separate bond for  
14 purposes of optional and mandatory redemption. If less than an entire maturity is called  
15 for redemption, the Bonds to be called for redemption shall be selected by lot by the  
16 Registrar. If some Bonds are to be redeemed by optional redemption and mandatory  
17 sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for  
18 optional redemption before selecting the Bonds by lot for the mandatory sinking fund  
19 redemption.  
20

21 (b) In either case, notice of such redemption shall be given not less than  
22 sixty (60) days, for any Bonds sold to the Authority as part of its SRF Program, and at  
23 least thirty (30) days for any Bonds sold to another purchaser, prior to the date fixed for  
24 redemption by mail unless the notice is waived by the registered owner of a Bond.  
25 Such notice shall be mailed to the address of the registered owners as shown on the  
26 registration records of the City as of the date which is sixty-five (65) days for any  
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1 Bonds sold to the Authority as part of its SRF Program, and forty-five (45) days for any  
2 Bonds sold to another purchaser, prior to such redemption date. The notice shall  
3 specify the date and place of redemption and sufficient identification of the Bonds  
4 called for redemption. The place of redemption shall be determined by the City.  
5 Interest on the Bonds so called for redemption shall cease on the redemption date fixed  
6 in such notice if sufficient funds are available at the principal office of the Paying Agent  
7 to pay the redemption price on the date so named. Coincidentally with the payment of  
8 the redemption price, the Bonds so called for redemption shall be surrendered for  
9 cancellation.  
10

11 Section 4. Execution and Authentication of the Bonds and BANs. The  
12 Bonds and BANs shall be executed in the name of the City by the manual or facsimile  
13 signature of the Mayor of the City (the "Mayor"), countersigned by the manual or  
14 facsimile signature of the Controller and attested by the manual or facsimile signature  
15 of the Clerk of the City (the "Clerk"), who shall cause the seal of the City or a  
16 facsimile thereof to be affixed to each of the Bonds and BANs. These officials, by the  
17 signing of a Signature and No Litigation Certificate, shall adopt as and for their own  
18 proper signatures their facsimile signatures appearing on the Bonds and BANs. The  
19 Bonds shall be authenticated by the manual signature of the Registrar, and no Bond  
20 shall be valid or become obligatory for any purpose until the certificate of  
21 authentication thereon has been so executed. In case any official whose signature  
22 appears on any Bond or BAN shall cease to be such official before the delivery of such  
23 Bond or BAN, the signature of such official shall nevertheless be valid and sufficient  
24 for all purposes, the same as if such official had been in office at the time of such  
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1 delivery. Subject to the provisions of this ordinance regarding the registration of the  
2 Bonds, the Bonds shall be fully negotiable instruments under the laws of the State of  
3 Indiana.

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5 Section 5. Security and Sources of Payment for the Bonds. The Bonds, as  
6 and to the extent paid for and delivered to the purchaser thereof as to both principal and  
7 interest, shall be valid and binding special revenue obligations of the City, payable  
8 solely from and secured by an irrevocable pledge of and constituting a charge upon all  
9 of the Net Revenues to be set aside into the Sewage Works Sinking Fund as herein  
10 provided and shall rank on a parity with the Prior Bonds and senior to the Zanesville  
11 Bonds. The City shall not be obligated to pay the Bonds or the interest thereon except  
12 from the Net Revenues of the Sewage Works, and the Bonds shall not constitute an  
13 indebtedness of the City within the meaning of the provisions and limitations of the  
14 constitution of the State of Indiana.

15  
16 Section 6. Form of the Bonds. The form and tenor of the Bonds shall be  
17 substantially as set forth in Exhibit B attached hereto and incorporated herein as if set  
18 forth at this place (with all blanks to be filled in properly and all necessary additions  
19 and deletions to be made prior to the delivery thereof).

20  
21 Section 7. Issuance, Sale and Delivery of the BANs and the Bonds; Official  
22 Statement. (a) Generally. The Controller is hereby authorized and directed to have the  
23 BANs and Bonds prepared, and the Mayor, the Controller and the Clerk are each hereby  
24 authorized and directed to execute, and attest as appropriate, the BANs and the Bonds in  
25 the form and manner herein provided. The Controller is hereby authorized and directed  
26 to deliver the BANs and the Bonds to the respective purchasers thereof after sale made  
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1 in accordance with the provisions of this ordinance, provided that at the time of said  
2 delivery the Controller shall collect the full amount which the respective purchasers  
3 have agreed to pay therefor, which amount shall not be less than par value of the BANs  
4 if sold to the Authority as part of its SRF Program or not less than 99% of the par value  
5 of the BANs if sold to any other purchaser, or not less than par value of the Bonds if  
6 sold to the Authority as part of its SRF Program, and not less than 98% of the par value  
7 of the Bonds if sold to any other purchaser, as the case may be. Payment for the BANs  
8 and any Bonds sold to the Authority as a part of its SRF Program may be made in  
9 installments. Each series of Bonds herein authorized and delivered to the purchaser  
10 shall be the binding special revenue obligations of the City. The proceeds derived  
11 from the sale of the Bonds and BANs shall be and are hereby set aside for application  
12 on the cost of the Project hereinbefore referred to, the refunding of the BANs, if issued,  
13 and the expenses necessarily incurred in connection with the BANs and Bonds. The  
14 proper officers of the City are hereby directed to draw all proper and necessary  
15 warrants, and to do whatever acts and things which may be necessary to carry out the  
16 provisions of this ordinance.

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20 (b) Public Sale of any Series of Bonds. If any Bonds are sold by public  
21 sale, prior to the sale of the Bonds, the Controller shall cause to be published either  
22 (i) a notice of bond sale in the *Fort Wayne News-Sentinel* and *The Journal Gazette*, the  
23 only newspapers published in the City, two times, at least one week apart, the first  
24 publication made at least fifteen (15) days before the date of the sale and the second  
25 publication being made at least three (3) days before the date of the sale, or (ii) a notice  
26 of intent to sell in the newspapers described in (i) above and the *Court & Commercial*  
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1        *Record*, all in accordance with IC 5-1-11 and IC 5-3-1. The notice of such sale or a  
2        summary thereof may also be published in *The Bond Buyer*, a financial journal  
3        published in the City and State of New York and/or in other publications, in the  
4        discretion of the Controller. The notice shall state the character and amount of the  
5        Bonds, the maximum rate of interest thereon, the terms and conditions upon which bids  
6        will be received and the sale made, and such other information as the Controller and the  
7        attorneys employed by the City shall deem advisable and any summary notice may  
8        contain any information deemed so advisable. The notice may provide, among other  
9        things, that electronic bidding will be permitted and that the successful bidder shall be  
10       required to submit a certified or cashier's check or a wire transfer in an amount equal to  
11       1% of the principal amount of the Bonds described in the notice to guarantee  
12       performance on the part of the bidder, not later than 3:30 p.m. (Fort Wayne time) on the  
13       next business day following the award. In the event the successful bidder shall fail or  
14       refuse to accept delivery of the Bonds and pay for the same as soon as the Bonds are  
15       ready for delivery, or at the time fixed in the notice of sale, then said check and the  
16       proceeds thereof shall be the property of the City and shall be considered as its  
17       liquidated damages on account of such default. Bidders for the Bonds will be required  
18       to name the rate or rates of interest which the Bonds are to bear, not exceeding the  
19       maximum rate hereinbefore fixed, and such interest rate or rates shall be in multiples of  
20       one eighth (1/8), one-twentieth (1/20) or one one hundredth (1/100) of one percent  
21       (1%). The rate bid on a maturity shall be equal to or greater than the rate bid on the  
22       immediately preceding maturity. No conditional bid or bid for less than 98% of the face  
23       amount of the Bonds will be considered. The opinion of Ice Miller LLP, bond counsel

1 of Indianapolis, Indiana, approving the legality of the Bonds, will be furnished to the  
2 purchaser at the expense of the City.

3  
4 The Bonds shall be awarded by the Controller to the best bidder who has  
5 submitted his bid in accordance with the terms of this ordinance, IC 5-1-11 and the  
6 notice of sale. The best bidder will be the one who offers the lowest net interest cost to  
7 the City, to be determined by computing the total interest on all of the Bonds to their  
8 maturities and adding thereto the discount bid, if any, and deducting the premium bid, if  
9 any. The right to reject any and all bids shall be reserved. If an acceptable bid is not  
10 received on the date of sale, the sale may be continued from day to day thereafter  
11 without further advertisement for a period of thirty (30) days, during which time no bid  
12 which provides a higher net interest cost to the City than the best bid received at the  
13 time of the advertised sale will be considered.

14  
15 Distribution of an Official Statement (preliminary and final) prepared by H.J.  
16 Umbaugh & Associates, Certified Public Accountants, LLP, on behalf of the City, is  
17 hereby approved and the Mayor or the Controller are authorized and directed to execute  
18 the Official Statement on behalf of the City in a form consistent with this ordinance.  
19 The Mayor or the Controller are hereby authorized to designate the preliminary Official  
20 Statement as "nearly final" for purposes of Rule 15c2-12 promulgated by the Securities  
21 and Exchange Commission ("Rule").

22  
23 (c) As an alternative to public sale, the Controller may negotiate the sale of  
24 any series of Bonds to the Authority as a part of its SRF Program. The Mayor and the  
25 Controller are hereby authorized to: (i) submit an application to the Authority as a part  
26 of its SRF Program; (ii) execute a Financial Assistance Agreement with the Authority  
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1 with terms conforming to this ordinance; and (iii) sell such Bonds upon such terms as  
2 are acceptable to the Mayor and the Controller consistent with the terms of this  
3 ordinance. The substantially final form of Financial Assistance Agreement attached to  
4 this ordinance is incorporated herein by reference is hereby approved by the Common  
5 Council, and the Mayor and Controller are hereby authorized to execute and deliver the  
6 same, and to approve any changes in form or substance to the Financial Assistance  
7 Agreement, which are consistent with the terms of this ordinance, such changes to be  
8 conclusively evidenced by its execution.  
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10           Section 8.     Credit Enhancement; Opinion of Bond Counsel. (a) In the event  
11 the financial advisor to the City certifies to the City that it would be economically  
12 advantageous for the City to obtain a municipal bond insurance policy, the City hereby  
13 authorizes the purchase of such an insurance policy. The acquisition of a municipal  
14 bond insurance policy is hereby deemed economically advantageous in the event the  
15 difference between the present value cost of (a) the debt service on the Bonds if issued  
16 without municipal bond insurance and (b) the total debt service on the Bonds if issued  
17 with municipal bond insurance, is greater than the cost of the premium on the municipal  
18 bond insurance policy. If such an insurance policy is purchased, the Mayor and the  
19 Controller are hereby authorized to execute and delivery all agreements with the provider  
20 of the insurance policy to the extent necessary to comply with the terms of such  
21 insurance policy and the commitment to issue such policy. Such agreement shall be  
22 deemed a part of this ordinance for all purposes and is hereby incorporated hereby by  
23 reference.  
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1 (b) Prior to the delivery of any series of Bonds or BANs, the City shall  
2 obtain a legal opinion as to the validity of the Bonds and BANs from Ice Miller LLP,  
3 Indianapolis, Indiana, bond counsel for the City, with such opinion to be furnished to  
4 the purchasers of the Bonds and BANs at the expense of the City. The costs of  
5 obtaining any such insurance, other credit enhancement and/or credit ratings, together  
6 with bond counsel's fee in preparing and delivering such opinions and in the  
7 performance of related services in connection with the issuance, sale and delivery of  
8 the Bonds and BANs, shall be considered as a part of the cost of the Project and shall be  
9 paid out of the proceeds of the Bonds or BANs, as the case may be.  
10

11 Section 9. Disposition of Proceeds of the Bonds and BANs; City of Fort  
12 Wayne Sewage Works Construction Account. The proceeds from the sale of the Bonds  
13 and BANs shall be deposited and applied as follows:  
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15 (a) The accrued interest, if any, and any premium received at the time of  
16 delivery of the Bonds shall be deposited in the Sewage Works Sinking Fund continued  
17 by this ordinance. Any proceeds of the Bonds to be used for deposits into the Reserve  
18 Accounts shall be deposited into either the hereinafter defined Reserve Account or the  
19 SRF Reserve Account, as the case may be.  
20

21 (b) The remaining proceeds from the sale of the Bonds and BANs shall  
22 be deposited in a bank or banks which are legally qualified depositories for the funds of  
23 the City, in the special account to be designated as "City of Fort Wayne Sewage Works  
24 Construction Account" (the "Construction Account"). Amounts in the Construction  
25 Account shall be expended only for the purpose of paying the costs of the Project, as  
26 described in this ordinance and in the Act, refunding the BANs if issued, together  
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1 with all authorized costs relating thereto, including the costs of issuance of the Bonds  
2 and BANs, and as otherwise permitted or required by the Act and this ordinance.  
3 Any balance or balances remaining unexpended in the Construction Account  
4 after completion of the Project, which are not required to meet unpaid obligations  
5 incurred in connection with the construction of the Project, shall be used solely for  
6 one or more of the purposes permitted under the provisions of Indiana Code 5-1-  
7 13, as amended. Pursuant to the Act, the owners of the Bonds shall be entitled to a  
8 lien on the proceeds of the Bonds until such proceeds are applied as required by this  
9 ordinance and by Indiana law.  
10

11 (c) With respect to any Bonds sold to the Authority as part of its SRF  
12 Program, to the extent that (a) the total principal amount of the Bonds is not paid by  
13 the purchaser or drawn down by the City or (b) proceeds remain in the Construction  
14 Account and are not applied to the Project (or any modifications or additions thereto  
15 approved by the Department and the Authority), the City shall reduce the principal  
16 amount of the Bond maturities to effect such reduction in a manner that will still  
17 achieve the annual debt service as described in Section 2 subject to and upon the  
18 terms set forth in the Financial Assistance Agreement.  
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21 Section 10. Segregation and Application of Sewage Works Revenues. All  
22 revenues derived from the operation of the Sewage Works and from the collection of  
23 sewage rates and charges shall be deposited in a special fund of the City (the "Revenue  
24 Fund") and segregated and kept separate and apart from all other funds and bank  
25 accounts of the City. Out of said revenues the proper and reasonable expenses of  
26 operation, repair and maintenance of the Sewage Works shall be paid, the principal and  
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1 interest of all bonds and fiscal agency charges of bank paying agents shall be paid, the  
2 Reserve Accounts shall be funded, and the costs of replacements, extensions, additions  
3 and improvements shall be paid as hereinafter provided. PILOTs shall be made not  
4 more frequently than semiannually on June 30 and December 31 and may be made  
5 only if all monthly deposits required by this ordinance are current and held as of such  
6 dates in the Operation and Maintenance Fund and the Sinking Fund (each as defined  
7 herein). Other than the PILOTs, no moneys derived from the revenues of the Sewage  
8 Works shall be transferred to the General Fund of the City or be used for any purpose  
9 not connected with the Sewage Works. All moneys deposited in the Revenue Fund may  
10 be invested in accordance with IC 5-13, as amended and as applicable, pursuant to IC  
11 4-4-11 and IC 13-18-13.  
12

13  
14 Section 11. Operation and Maintenance Fund. The Operation and  
15 Maintenance Fund is hereby continued. On the last day of each calendar month,  
16 revenues of the Sewage Works shall be transferred from the Revenue Fund to the  
17 Operation and Maintenance Fund. The balance maintained in this Fund shall be  
18 sufficient to pay the expenses of operation, repair and maintenance for the then next  
19 succeeding two calendar months. The moneys credited to this Fund shall be used for  
20 the payment of the reasonable and proper operation, repair and maintenance expenses of  
21 the sewage works on a day-to-day basis, but none of the moneys in such Fund shall be  
22 used for depreciation, replacements, improvements, extensions or additions. Any  
23 monies in said Fund in the excess of the expected expenses of operation, repair and  
24 maintenance for the next succeeding month may be transferred to the Sinking Fund if  
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1 necessary to prevent a default in the payment of principal of or interest on the  
2 outstanding bonds of the Sewage Works.

3           Section 12.   Sewage Works Sinking Fund. (a)   The special fund designated  
4 the "Sewage Works Sinking Fund," continued under the Prior Ordinances is hereby  
5 continued and designated as the special fund for the payment of the interest on and  
6 principal of the Bonds and the payment of any fiscal agency charges in connection  
7 with the payment of the Bonds and interest thereon. There shall be set aside and  
8 deposited in the Sewage Works Sinking Fund ("Sinking Fund"), as available, and as  
9 hereinafter provided, a sufficient amount of the Net Revenues of the Sewage Works to  
10 meet the requirements of the Bond and Interest Account hereby continued and the  
11 Reserve Accounts (as hereinafter defined) hereby continued in the Sinking Fund. The  
12 special account within the Sinking Fund designated as the "Sewage Works Reserve  
13 Account," is hereby continued as a debt service reserve for all Prior Bonds except  
14 those initially purchased by or for the account of the SRF Program and is constituted as  
15 a debt service reserve for any Bonds issued hereunder which are not initially purchased  
16 by or for the account of the SRF Program. The SRF Reserve Account is hereby  
17 continued as a debt service reserve for the Prior Bonds which were initially purchased  
18 by or for the account of the SRF Program and shall serve as the debt service reserve for  
19 all Bonds issued hereunder which are initially purchased by or for the account of the  
20 SRF Program. Such payments shall continue until the balances in the Bond and Interest  
21 Account and the Reserve Accounts, equal the principal of and interest on all of the then  
22 outstanding bonds of the Sewage Works to their final maturity.

1                   (b) Bond and Interest Account. There is hereby continued, within the  
2 Sinking Fund, the Bond and Interest Account. There shall be credited on the last day of  
3 each calendar month from the Revenue Fund to the Bond and Interest Account an  
4 amount of the Net Revenues equal to at least one-twelfth (1/12) of the principal and at  
5 least one-sixth (1/6) of the interest on all then outstanding bonds payable on the then  
6 next succeeding principal and interest payment dates until the amount of interest and  
7 principal payable on the then next succeeding respective interest and principal payment  
8 dates shall have been so credited. Beginning on August 1, 2033, there shall be credited  
9 on the last day of each calendar month from the Revenue Fund to the Bond and Interest  
10 Account an amount of the Net Revenues equal to at least one-sixth (1/6) of the principal  
11 and at least one-sixth (1/6) of the interest on all then outstanding bonds payable on the  
12 then next succeeding principal and interest payment date until the amount of interest  
13 and principal payable on the then next succeeding interest and principal payment date  
14 shall have been so credited. There shall similarly be credited to the account any amount  
15 necessary to pay the bank fiscal agency charges for paying principal and interest on the  
16 then outstanding bonds as the same becomes payable. The City shall, from the sums  
17 deposited in the Sinking Fund and credited to the Bond and Interest Account, remit  
18 promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay  
19 the interest on the due dates thereof together with the amount of bank fiscal agency  
20 charges.  
21

22                   (c) Reserve Accounts. On the date of delivery of any series of Bonds which  
23 are not initially purchased by or for the account of the SRF Program, funds on hand of  
24 the Sewage Works, Bond proceeds, a debt service reserve surety bond ("Surety Bond"),  
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1 or a combination thereof may be deposited into the Sewage Works Reserve Account  
2 ("Reserve Account") hereby continued. The balance to be maintained in the Reserve  
3 Account shall equal but not exceed the least of (i) maximum annual debt service on the  
4 Prior Bonds (not initially purchased by or for the account of the SRF Program), Bonds  
5 (not initially purchased by or for the account of the SRF Program) and any parity bonds  
6 issued in the future by the City which are payable from Net Revenues of the Sewage  
7 Works ("Parity Bonds") and not initially purchased by or for the account of the SRF  
8 Program; (ii) 125% of average annual debt service on the Prior Bonds (not initially  
9 purchased by or for the account of the SRF Program), the Bonds (not initially purchased  
10 by or for the account of the SRF Program) and any Parity Bonds (not initially purchased  
11 by or for the account of the SRF Program) or (iii) 10% of the proceeds of the Prior  
12 Bonds (not initially purchased by or for the account of the SRF Program), the Bonds  
13 (not initially purchased by or for the account of the SRF Program) and any Parity Bonds  
14 (not initially purchased by or for the account of the SRF Program) ("Reserve  
15 Requirement"). If the initial deposit into the Reserve Account does not cause the  
16 balance therein to equal the Reserve Requirement or if no deposit is made, a sum of Net  
17 Revenues shall be credited to the Reserve Account on the last day of each calendar  
18 month until the balance therein equals the Reserve Requirement. The monthly deposits  
19 of Net Revenues shall be equal in amount and sufficient to accumulate the Reserve  
20 Requirement within (i) twelve (12) months or (ii) five years, after the Prior Bonds are  
21 no longer outstanding, of the date of delivery of the Bonds. The Reserve Account shall  
22 not secure and may not be used to pay the Zanesville Bonds, or any Prior Bonds, Bonds  
23 or Parity Bonds which are initially purchased by or for the account of the SRF Program.  
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On the date of delivery of any series of Bonds which are initially purchased by or for the account of the SRF Program, funds on hand of the Sewage Works, Bond proceeds, a Surety Bond, or a combination thereof may be deposited into the SRF Reserve Account (collectively, with the Reserve Account, referred to as "Reserve Accounts") hereby continued. The balance to be maintained in the SRF Reserve Account shall equal the maximum annual debt service on the Prior Bonds (initially purchased by or for the account of the SRF Program), the Bonds initially purchased by or for the account of the SRF Program and any Parity Bonds initially purchased by or for the account of the SRF Program ("SRF Reserve Requirement"); provided, however, the SRF Reserve Requirement is defined as the initial reserve requirement, and the amount held therein will be decreased on the second day of each January to the maximum annual debt service on the then outstanding Prior Bonds, Bonds and Parity Bonds initially purchased by or for the account of the SRF Program in the then present or any succeeding year, and provided, further than the City shall give 15 days prior written notice to the Authority before transferring funds out of the SRF Reserve Account. If the initial deposit into the SRF Reserve Account does not cause the balance therein to equal the SRF Reserve Requirement or if no deposit is made, a sum of Net Revenues shall be credited to the SRF Reserve Account on the last day of each calendar month until the balance therein equals the SRF Reserve Requirement. The monthly deposits of Net Revenues shall be equal in amount and sufficient to accumulate the SRF Reserve Requirement within (i) twelve (12) months or (ii) five years, after the Prior Bonds are no longer outstanding, of the date of delivery of the Bonds. The SRF Reserve Account shall not secure and may not be used to pay the Zanesville Bonds, or

1 any Prior Bonds, Bonds or Parity Bonds which are not initially purchased by or for the  
2 account of the SRF Program.

3 The Surety Bond must be issued by an insurance company rated (at the time the  
4 Surety Bond is purchased) in the highest rating category by Standard & Poor's  
5 Corporation or Moody's Investors Service. However, as long as any of the Prior Bonds  
6 or Bonds initially purchased by or for the account of the SRF Program, the City shall  
7 receive consent of the Authority before funding any portion of the SRF Reserve  
8 Account with such Surety Bond. If such a Surety Bond is purchased, the Mayor and the  
9 Controller are hereby authorized to execute and deliver all agreements with the provider  
10 of the Surety Bond to the extent necessary to comply with the terms of such Surety  
11 Bond and the commitment to issue such policy. Such agreements shall be deemed a  
12 part of this ordinance for all purposes and are hereby incorporated herein by reference.  
13

14 The respective Reserve Accounts shall constitute the margin for safety and a  
15 protection against default in the payment of principal and interest on the respective  
16 Prior Bonds, the Bonds and any Parity Bonds which they respectively secure, and  
17 moneys in the respective Reserve Accounts shall be used to pay current principal and  
18 interest on the respective Prior Bonds, the Bonds and any Parity Bonds which they  
19 respectively secure to the extent that moneys in the Bond and Interest Account, after  
20 applied on a pro rata basis to any outstanding Prior Bonds, Bonds and Parity Bonds, are  
21 insufficient for that purpose. Any deficiency in the balances maintained in the  
22 respective Reserve Accounts shall be promptly made up from the next available Net  
23 Revenues remaining after credits into the Bond and Interest Account on a pro rata basis  
24 within a twelve (12) month period. Any moneys in the respective Reserve Accounts in  
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1 excess of the Reserve Requirement or the SRF Reserve Requirement shall be  
2 transferred to the Sewage Works Improvement Fund.

3 (a) If any Bonds are initially purchased by or for the account of the SRF  
4 Program, the Sinking Fund, containing the Bond and Interest Account and the Reserve  
5 Accounts, and the Construction Account may be held by a financial institution  
6 acceptable to the Authority, pursuant to terms acceptable to the Authority. If all or a  
7 portion of the Sinking Fund and the accounts therein are held in trust, the City shall  
8 transfer the monthly required amounts of Net Revenues to the Bond and Interest  
9 Account and the Reserve Accounts in accordance with this Section 12, and the financial  
10 institution holding such funds in trust shall be instructed to pay the required payments in  
11 accordance with the payment schedules for the City's outstanding bonds. The financial  
12 institution selected to serve in this role may also serve as the Registrar and the Paying  
13 Agent for such Bonds. If the Construction Account is held in trust, the City shall  
14 deposit the proceeds of such Bonds therein until such proceeds are applied consistent  
15 with this ordinance and the Financial Assistance Agreement. The Common Council  
16 hereby authorizes the Mayor and Controller to execute and deliver an agreement with a  
17 financial institution to reflect this trust agreement for all or a part of the Sinking Fund  
18 and the Construction Account in the form of trust agreement as approved by the Mayor  
19 and the Controller, consistent with the terms and provisions of this ordinance.

20 Section 13. Sewage Works Improvement Fund. After meeting the  
21 requirements of the Operation and Maintenance Fund and the Sinking Fund, any excess  
22 revenues may be transferred or credited from the Revenue Fund to the "Sewage Works  
23 Improvement Fund," hereby continued, and said Fund shall be used for replacements,  
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1 additions, improvements and extensions of the Sewage Works or for any other lawful  
2 purpose, so long as such use pertains to and involves the business of the Sewage Works.  
3 PILOTs shall be made not more frequently than semiannually on June 30 and December  
4 31 and may be made only if the amounts required to be held as of such dates in the  
5 Operation and Maintenance Fund and the Sinking Fund pursuant to Section 11 and  
6 Section 12 are so held after considering any such contemplated payment. Moneys in  
7 the Sewage Works Improvement Fund shall be transferred to the Sinking Fund if  
8 necessary to prevent a default in the payment of principal of or interest on the then  
9 outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or  
10 minimum balance in the Reserve Accounts of the Sinking Fund or may be transferred to  
11 the Operation and Maintenance Fund to meet unforeseen contingencies in the operation,  
12 repair and maintenance of the Sewage Works.

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15 Section 14. Books of Record and Accounts; Continuing Disclosure. (a) The  
16 City shall keep proper books of record and accounts, separate from all of its other  
17 records and accounts, in which completed and correct entries shall be made showing  
18 all revenues collected from said works and deposited in said funds, and all  
19 disbursements made therefrom on account of the operation of the works, and to meet  
20 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 the  
22 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 described  
24 herein as of the close of the preceding fiscal year. Copies of all such statements and  
25 reports shall be kept on file in the office of the Controller.  
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1 (b) If necessary to comply with the Rule, the City shall execute and deliver a  
2 form of Continuing Disclosure Undertaking ("Disclosure Undertaking"). The Mayor or  
3 the Controller are hereby authorized and directed to complete and execute the  
4 Disclosure Undertaking on behalf of the City, if necessary to comply with the Rule.  
5 Notwithstanding any other provisions of this ordinance, failure of the City to comply  
6 with the Disclosure Undertaking shall not be considered an event of default under the  
7 Bonds or this ordinance.  
8

9 (c) So long as any of the Prior Bonds or Bonds are held by the Authority, the  
10 City shall establish and maintain the books and other financial records of the Project  
11 (including the establishment of a separate account or subaccount for the Project) and the  
12 Sewage Works in accordance with (i) generally accepted governmental accounting  
13 standards for utilities, on an accrual basis, as promulgated by the Government  
14 Accounting Standards Board and (ii) the rules, regulations and guidance of the State  
15 Board of Accounts.  
16

17 Section 15. Rates and Charges. The City covenants and agrees that it will  
18 establish and maintain just and equitable rates or charges for the use of and the services  
19 rendered by said works, to be paid by the owner of each and every lot, parcel of real  
20 estate or building that is connected with and uses said Sewage Works by or through any  
21 part of the Sewage Works system of the City, or that in any way uses or is served by  
22 such Sewage Works. Such rates or charges shall, to the extent permitted by law and  
23 only so long as the Prior Bonds are outstanding, be sufficient in each year to produce  
24 Net Revenues equal to 1.1 times the greater of the average annual debt service on the  
25 Prior Bonds, the Bonds and any Parity Bonds or the debt service payable during the  
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1 next succeeding twelve calendar months on the Prior Bonds, the Bonds and any Parity  
2 Bonds. For these purposes, the interest rate on variable rate debt shall be assumed to  
3 be the average interest rate thereon in the preceding calendar year. Such rates and  
4 charges shall be sufficient in each year for the payment of the proper and reasonable  
5 expenses of Operation and Maintenance (as defined in the Financial Assistance  
6 Agreement) of the Sewage Works, to comply with and satisfy all covenants contained  
7 in this ordinance including the sums required to be paid into the Sinking Fund by the  
8 Act, this ordinance, and the Financial Assistance Agreement, and to pay all obligations  
9 of the Sewage Works and of the City with respect to the Sewage Works.  
10

11 Such rates or charges shall, if necessary, be changed and readjusted from time  
12 to time so that the revenues therefrom shall always be sufficient to meet the expenses  
13 of Operation and Maintenance of the Sewage Works and the requirements of the  
14 Sinking Fund. The rates or charges so established shall apply to any and all use of  
15 such Sewage Works by and service rendered to the City and all departments thereof  
16 and shall be paid semiannually by the City or the various departments thereof as the  
17 charges accrue.  
18

19  
20 Section 16. Defeasance. If, when the Bonds issued hereunder (or portions  
21 thereof) shall have become due and payable in accordance with their terms or shall have  
22 been duly called for redemption or irrevocable instructions to call the Bonds (or  
23 portions thereof) for redemption shall have been given, and the whole amount of  
24 the principal and the interest and the premium, if any, so due and payable upon all of  
25 the Bonds (or portions thereof) then outstanding shall be paid; or (i) sufficient moneys, or  
26 (ii) direct obligations of, or obligations the principal of and interest on which are  
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1 unconditionally guaranteed by, the United States of America, the principal of and the  
2 interest on which when due will provide sufficient moneys, or (iii) time certificates of  
3 deposit fully secured as to both principal and interest by obligations of the kind  
4 described in (ii) above of a bank or banks the principal of and interest on which when  
5 due will provide sufficient moneys, shall be held in trust for such purpose, and  
6 provision shall also be made for paying all fees and expenses for the redemption, then  
7 and in that case the Bonds (or portions thereof) issued hereunder shall no longer be  
8 deemed outstanding or entitled to the pledge of the Net Revenues of the City's Sewage  
9 Works.  
10

11  
12 Section 17. Additional Bonds. The City reserves the right to authorize and  
13 issue additional BANs at any time ranking on a parity with the BANs. The City also  
14 reserves the right to authorize and issue additional Parity Bonds, payable out of the  
15 Net Revenues of its Sewage Works, ranking on a parity with the Bonds authorized by  
16 this ordinance, for the purpose of financing the cost of future additions, extensions and  
17 improvements to the Sewage Works, or to refund obligations, subject to the following  
18 conditions:  
19

20 (a) The interest on and principal of all bonds payable from the  
21 revenues of the Sewage Works shall have been paid to date in accordance with the  
22 terms thereof, provided, this condition shall be deemed satisfied if any required  
23 amount is to be provided from the proceeds of the Parity Bonds or other funds of the  
24 City, and all required payments into the Sinking Fund shall have been made in  
25 accordance with the provisions of this ordinance.  
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1           (b) As of the date of issuance of such additional Parity Bonds,  
2 the balance in the Reserve Account shall equal not less than the Reserve  
3 Requirement, and the balance in the SRF Reserve Account shall equal not less than  
4 the SRF Reserve Requirement, calculated to include principal and interest  
5 requirements on the Bonds, any then outstanding parity bonds and the additional  
6 Parity Bonds proposed to be issued, provided this condition shall be deemed satisfied  
7 if any required amount is to be provided from the proceeds of the newly issued Parity  
8 Bonds or other funds of the City over a period of no longer than five (5) years  
9 following the delivery of the Parity Bonds.  
10

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

3 (d) The principal of and mandatory sinking fund payment  
4 dates for said additional Parity Bonds shall be payable on August 1 until  
5 the date August 1, 2033 and thereafter, shall be payable semiannually on February 1 and  
6 August 1, and the interest on said additional Parity Bonds shall be payable semiannually  
7 on February 1 and August 1 during the periods in which such principal and interest are  
8 payable. If the additional Parity Bonds are issued as capital appreciation bonds, the  
9 amount payable at maturity thereof shall be payable on February 1 and/or August 1  
10 during the periods in such maturity amounts are payable.

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

18 (f) For so long as any of the Bonds are outstanding and owned by the  
19 Authority as part of its SRF Program, (i) the City obtains the consent of the Authority,  
20 (ii) the City has faithfully performed and is in compliance with each of its obligations,  
21 agreements and covenants contained in the Financial Assistance Agreement and this  
22 resolution, and (iii) the City is in compliance with its National Pollutant Discharge  
23 Elimination System permits, except for non-compliance for which purpose the  
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1 additional Parity Bonds are issued, including refunding bonds issued prior to, but part of  
2 the overall plan to eliminate such non-compliance.

3 Section 18. Additional Covenants of the City. For the purpose of further  
4 safeguarding the interests of the owners of the BANs and the Bonds herein authorized,  
5 it is specifically provided as follows:  
6

7 (a) All contracts let by the City in connection with the construction of said  
8 Project shall be let after due advertisement as required by the laws of the State of  
9 Indiana, and all contractors shall be required to furnish surety bonds in an amount  
10 equal to one hundred percent (100%) of the amount of such contracts, to insure the  
11 completion of said contracts in accordance with their terms, and such contractors  
12 shall also be required to carry such employers liability and public liability insurance as  
13 are required under the laws of the State of Indiana in the case of public contracts, and  
14 shall be governed in all respects by the laws of the State of Indiana relating to public  
15 contracts.  
16

17 (b) Said Project shall be constructed under the supervision and subject to the  
18 approval of the Consulting Engineers or such other competent engineer as shall be  
19 designated by the Board. All estimates for work done or material furnished shall first  
20 be checked by the Consulting Engineers and approved by the Board.  
21

22 (c) So long as the Bonds or BANs are outstanding, the City shall at all times  
23 maintain its Sewage Works in good condition and operate the same in an efficient  
24 manner and at a reasonable cost.

25 (d) So long as any of the Bonds or BANs herein authorized are  
26 outstanding, the City shall maintain insurance coverage, including fidelity bonds, to  
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1 protect the Sewage Works and its operations on the insurable parts of said Sewage  
2 Works of a kind and in an amount such as would normally be carried by private  
3 companies engaged in a similar type of business, and, so long as the BANs and/or  
4 Bonds are owned by the Authority as part of its SRF Program such insurance shall  
5 be acceptable to the Authority. All insurance shall be placed with responsible  
6 insurance companies qualified to do business under the laws of the State of Indiana,  
7 provided, however, such insurance requirement may be satisfied, in part or in whole,  
8 through the City's self insurance program. Insurance proceeds and condemnation  
9 awards shall be used to replace or repair the property, provided, for so long as the  
10 BANs or Bonds are owned by the Authority as part of its SRF Program, the  
11 Authority may consent to a different use of such proceeds.  
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13  
14 (e) So long as any of the BANs or Bonds are outstanding, the City shall not  
15 mortgage, pledge or otherwise encumber the Sewage Works, or any portion thereof, nor  
16 shall it sell, lease or otherwise dispose of any portion thereof except replace equipment  
17 which may become worn out or obsolete, provided, however, if any Bonds or BANs are  
18 owned by the Authority as part of its SRF Program, the City shall obtain the prior  
19 written consent of the Authority.  
20

21 (f) So long as the BANs or Bonds are owned by the Authority as part of its  
22 SRF Program, the City shall not borrow any money, enter into any contract or  
23 agreement or incur any other liabilities in connection with the Sewage Works, other  
24 than for normal operating expenditures, without the prior written consent of the  
25 Authority if such undertaking would involve, commit, or use the revenues of the  
26 Sewage Works.  
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1           (g)     Except as hereinbefore provided in Section 17 hereof, so long as any of  
2     the Bonds herein authorized are outstanding, no additional bonds or other obligations  
3     pledging any portion of the revenues of said Sewage Works shall be authorized,  
4     executed or issued by the City except such as shall be made subordinate and junior in all  
5     respects to the Bonds herein authorized, unless all of the Bonds herein authorized are  
6     redeemed, retired or defeased pursuant to Section 16 hereof coincidentally with the  
7     delivery of such additional bonds or other obligations.  
8

9           (h)     The City shall take all action or proceedings necessary and proper to  
10    require connection of all property where liquid and solid waste, sewage, night soil, or  
11    industrial waste is produced with available sanitary sewers. The City shall, insofar as  
12    possible, cause all such sanitary sewers to be connected with said Sewage Works.  
13

14          (i)     The provisions of this ordinance shall constitute a contract by and  
15    between the City and the owners of the Bonds or BANS herein authorized, and after the  
16    issuance of said Bonds or BANS, this ordinance shall not be repealed or amended in  
17    any respect which will adversely affect the rights of the owners of said Bonds or  
18    BANS, nor shall the Common Council adopt any law, ordinance or resolution  
19    which in any way adversely affects the rights of such owners so long as any of said  
20    Bonds or BANS or the interest thereon remains unpaid. Except for the changes set  
21    forth in Section 23(a)-(f), this ordinance may be amended, however, without the consent  
22    of BAN or Bond owners, if the Common Council determines, in its sole discretion, that  
23    such amendment would not adversely affect the owners of the BANS or Bonds  
24    provided, however, that if any BANS or Bonds are sold to the Authority as part of its  
25    SRF Program, the City shall obtain the prior written consent of the Authority.  
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1           (j)     The provisions of this ordinance shall be construed to create a trust in the  
2 proceeds of the sale of the BANS and the Bonds herein authorized for the uses and  
3 purposes herein set forth, and the owners of the BANS and the Bonds shall retain a  
4 lien on such respective proceeds until the same are applied in accordance with the  
5 provisions of this ordinance and of the Act. The provisions of this ordinance shall also  
6 be construed to create a trust in the portion of the Net Revenues herein directed to be  
7 set apart and paid into the Sewage Works Sinking Fund for the uses and purposes of  
8 said fund as in this ordinance set forth. The owner of said Bonds shall have all of the  
9 rights, remedies and privileges set forth in the provisions of the Act, including the right  
10 to have a receiver appointed to administer said Sewage Works in the event of default in  
11 the payment or the principal of or interest on any of the Bonds herein authorized or in  
12 the event of default in respect to any of the provisions of this ordinance or the Act.  
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14           Section 19.   Permitted Actions Relating to Preservation of Exclusion of  
15 Interest from Federal Gross Income. The Controller is hereby authorized to invest  
16 moneys pursuant to IC 5-1-14-3 and the provisions of this ordinance (subject to  
17 applicable requirements of federal law to insure such yield is the then current market  
18 rate) to the extent necessary or advisable to preserve the exclusion from gross income of  
19 interest on the BANS and Bonds under federal law.  
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22           The Controller shall keep full and accurate records of investment earnings and  
23 income from moneys held in the funds and accounts referenced herein. In order to  
24 comply with the provisions of this ordinance, the Controller is hereby authorized and  
25 directed to employ consultants or attorneys from time to time to advise the City as to  
26 requirements of federal law to preserve the tax exclusion or exemption.  
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1                   Section 20.   Tax Covenants. In order to preserve the exclusion of interest on  
2 the Bonds and BANs from gross income for federal tax purposes under Section 103 of  
3 the Internal Revenue Code of 1986 as existing on the date of issuance of the Bonds or  
4 BANs, as the case may be ("Code"), and as an inducement to purchasers of the Bonds  
5 and BANs, the City represents, covenants and agrees that:  
6

7                   (a)    The Sewage Works will be available for use by members of the general  
8 public. Use by a member of the general public means use by natural persons not  
9 engaged in a trade or business. No person or entity other than the City or another state  
10 or local governmental unit will use more than 10% of the proceeds of the Bonds or  
11 BANs or property financed by the Bond or BAN proceeds other than as a member of  
12 the general public. No person or entity other than the City or another state or local  
13 governmental unit will own property financed by Bond or BAN proceeds or will have  
14 any actual or beneficial use of such property pursuant to a lease, a management or  
15 incentive payment contract, arrangements such as take-or-pay or output contracts or any  
16 other type of arrangement that conveys other special legal entitlements and  
17 differentiates that person's or entity's use of such property from use by the general  
18 public, unless such uses in the aggregate relate to no more than 10% of the proceeds of  
19 the Bonds or BANs, as the case may be. If the City enters into a management contract  
20 for the Sewage Works, the terms of the contract will comply with IRS Revenue  
21 Procedure 97-13, as it may be amended, supplemented or superseded for time to time,  
22 so that the contract will not give rise to private business use under the Code and the  
23 Regulations, unless such use in aggregate relates to no more than 10% of the proceeds  
24 of the Bonds or BANs, as the case may be.  
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1 (b) No more than 10% of the principal of or interest on the Bonds or BANs  
2 is (under the terms of the Bonds or BANs, this ordinance or any underlying  
3 arrangement), directly or indirectly, secured by an interest in property used or to be used  
4 for any private business use or payments in respect of any private business use or  
5 payments in respect of such property or to be derived from payments (whether or not to  
6 the City) in respect of such property or borrowed money used or to be used for a private  
7 business use.  
8

9 (c) No more than 5% of the Bond or BAN proceeds will be loaned to any  
10 person or entity other than another state or local governmental unit. No more than 5%  
11 of the Bond or BAN proceeds will be transferred, directly or indirectly, or deemed  
12 transferred to a nongovernmental person in any manner that would in substance  
13 constitute a loan of the Bond or BAN proceeds.  
14

15 (d) The City reasonably expects, as of the date hereof, that the Bonds and  
16 BANs will not meet either the private business use test described in paragraph (a) and  
17 (b) above or the private loan test described in paragraph (c) above during the entire term  
18 of the Bonds or BANs, as the case may be.  
19

20 (e) No more than 5% of the proceeds of the Bonds or BANs will be  
21 attributable to private business use as described in (a) and private security or payments  
22 described in (b) attributable to unrelated or disproportionate private business use. For  
23 this purpose, the private business use test is applied by taking into account only use that  
24 is not related to any government use of proceeds of the issue (Unrelated Use) and use  
25 that is related but disproportionate to any governmental use of those proceeds  
26 (Disproportionate Use).  
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1 (f) The City will not take any action nor fail to take any action with respect  
2 to the Bonds or BANs that would result in the loss of the exclusion from gross income  
3 for federal tax purposes on the Bonds or BANs pursuant to Section 103 of the Code, nor  
4 will the City act in any other manner which would adversely affect such exclusion. The  
5 City covenants and agrees not to enter into any contracts or arrangements which would  
6 cause the Bonds or BANs to be treated as private activity bonds under Section 141 of  
7 the Code.  
8

9 (g) It shall be not an event of default under this ordinance if the interest on  
10 any Bond or BAN is not excludable from gross income for federal tax purposes or  
11 otherwise pursuant to any provision of the Code which is not currently in effect and in  
12 existence on the date of issuance of the Bonds or BANs, as the case may be.  
13

14 (h) The City represents that it will rebate any arbitrage profits to the United  
15 States in accordance with the Code.

16 (i) These covenants are based solely on current law in effect and in  
17 existence on the date of delivery of such Bonds or BANs, as the case may be.  
18

19 Section 21. Issuance of BANs. (a) The City, having satisfied all the  
20 statutory requirements for the issuance of its Bonds, may elect to issue its BAN or  
21 BANs pursuant to a Bond Anticipation Note Purchase Agreement ("Purchase  
22 Agreement") to be entered into between the City and the purchaser of the BAN or  
23 BANs. If the BANs are sold to the Authority as part of its SRF Program, the Financial  
24 Assistance Agreement shall serve as the Purchase Agreement. The Common Council  
25 hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially  
26 issuing the Bonds to provide interim financing for the Project until permanent financing  
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1 becomes available. It shall not be necessary for the City to repeat the procedures for the  
2 issuance of its Bonds, as the procedures followed before the issuance of the BAN or  
3 BANs are for all purposes sufficient to authorize the issuance of the Bonds and the use  
4 of the proceeds to repay the BAN or BANs.  
5

6 The Mayor and the Controller are hereby authorized and directed to execute a  
7 Purchase Agreement or Financial Assistance Agreement (and any amendments made  
8 from time to time) in such form or substance as they shall approve acting upon the  
9 advice of counsel. The Mayor, the Clerk and the Controller may also take such other  
10 actions or deliver such other certificates as are necessary or desirable in connection with  
11 the issuance of the BANs or the Bonds and the other documents needed for the  
12 financing as they deem necessary or desirable in connection therewith.  
13

14 Section 22. Compliance with Tax Sections. Notwithstanding any other  
15 provisions of this ordinance, the covenants and authorizations contained in this  
16 ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on  
17 the Bonds and BANs from gross income under federal law ("Tax Exemption") need not  
18 be complied with if the City receives an opinion of nationally recognized bond  
19 counsel that any Tax Section is unnecessary to preserve the Tax Exemption.  
20

21 Section 23. Supplemental Ordinances. Subject to the terms and provisions  
22 contained in this Section, and not otherwise, the owners of not less than sixty-six and  
23 two-thirds percent ( $66\frac{2}{3}\%$ ) in aggregate principal amount of the Bonds issued  
24 pursuant to this ordinance and then outstanding shall have the right, from time to  
25 time, anything contained in this ordinance to the contrary notwithstanding, to  
26 consent to and approve the adoption by the City of such ordinance or ordinances  
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1 supplemental hereto as shall be deemed necessary or desirable by the City for the  
2 purpose of modifying, altering, amending, adding to or rescinding in any particular any  
3 of the terms or provisions contained in this ordinance, or in any supplemental  
4 ordinance; provided, however, that so long as the Bonds or BANs are owned by the  
5 Authority as part of its SRF Program, the City shall obtain the prior written consent of  
6 the Authority; and provided, further, that nothing herein contained shall permit or be  
7 construed as permitting:  
8

9 (a) An extension of the maturity of the principal of, mandatory sinking fund  
10 redemption dates, if any, or interest on any Bond issued pursuant to this ordinance; or  
11

12 (b) A reduction in the principal amount of any Bond or the redemption  
13 premium or the rate of interest thereon; or

14 (c) The creation of a lien upon or a pledge of the revenues of the Sewage  
15 Works ranking prior to the pledge thereof created by this ordinance; or

16 (d) A preference or priority of any Bond or Bonds issued pursuant to this  
17 ordinance over any other Bond or Bonds issued pursuant to the provisions of this  
18 ordinance; or

19 (e) A reduction in the aggregate principal amount of the Bonds required for  
20 consent to such supplemental ordinance; or  
21

22 (f) A reduction in the Reserve Requirement or the SRF Reserve  
23 Requirement.

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

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22 Section 24. Repeal of Conflicting Ordinances. All ordinances and parts of  
23 ordinances in conflict herewith are hereby repealed; provided, however, that this  
24 ordinance shall not be construed as repealing or modifying in any respect any of the  
25 provisions of the Prior Ordinances nor be construed as adversely affecting the rights of  
26 any of the holders of the Prior Bonds.  
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1                   Section 25.   Rates and Charges. The estimates of the rates and charges of the  
2 Sewage

3 Works are set forth in Ordinance No. \_\_\_\_\_ to be adopted on \_\_\_\_\_, 2014,  
4 which ordinance is incorporated herein by reference.  
5

6                   Section 26.   Captions. The captions in this ordinance are inserted only as a  
7 matter of convenience and reference, and such captions are not intended and shall not  
8 be construed to define, limit, establish, interpret or describe the scope, intent or effect of  
9 any provision of this ordinance.  
10

11                  Section 27.   Effectiveness. This ordinance shall be in full force and effect  
12 from and after its passage by the Common Council and approval by the Mayor.  
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1 PASSED AND ADOPTED by the Common Council of Fort Wayne, Indiana, on  
2 this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

3 COMMON COUNCIL OF THE CITY OF  
4 FORT WAYNE, INDIANA

5  
6 By: \_\_\_\_\_  
7 Member of the Common Council

8 APPROVED AS TO FORM AND LEGALITY

9  
10 \_\_\_\_\_  
11 Carol Helton, City Attorney

12  
13 Presented by me to the Mayor of the City of Fort Wayne this \_\_\_\_ day of  
14 \_\_\_\_\_, 2014 at \_\_\_\_:\_\_\_\_.m.

15  
16 \_\_\_\_\_  
17 Clerk

18 Signed and approved by me, the Mayor of the City of Fort Wayne, this \_\_\_\_ day  
19 of \_\_\_\_\_, 2014 at \_\_\_\_:\_\_\_\_.m.

20  
21 \_\_\_\_\_  
22 Mayor

EXHIBIT A

**General Project Description**

**Wet Weather Pond Storage and Dewatering Improvements**

The Wet Weather ponds (Ponds #1 and #2) on the north side of the river across from the Water Pollution Control Plant (WPCP) are a vital part of the City's wet weather facilities, and play a key role in the City's Long Term Control Plant (LTCP) and long term wet weather strategy. The Wet Weather Pump Station (WWPS) that is used to dewater the interceptor system and fill the ponds during wet weather events will require additional pumps and screens to increase its capacity. This increase is to handle the additional flows from the parallel interceptor and/or tunnel projects that are planned to begin construction in approximately 2017.

**Combined Sewer System Capacity Improvement Program (CSSCIP)**

The projects in this category of work are included in the LTCP and generally include partial sewer separation by the construction of new storm drains and/or sanitary sewers, but may include various other technologies/methods and source control efforts to reduce Combined Sewer Overflows (CSO's) and neighborhood capacity issues. In all of these projects, the City will investigate the potential for incorporating green/sustainable solutions. The project areas are studied as part of the program and confirmed to be cost-effective components of the CSSCIP.

**Satellite Storage & Disinfection Facility Improvements**

These LTCP projects allow for excess wet weather flows from the combined sewers in designated areas to be diverted into underground storage tanks for temporary storage until the wet weather event is over, or disinfected and then released as part of efforts to reduce untreated CSO's to local waterways. The facilities would typically consist of underground storage basins, a pump station, process structures, floatables control and site improvements and all associated operations facilities. The LTCP also provides for these facilities to have alternatives evaluated and allows for relief sewers and conveyance of the wet weather flows to the Wet Weather Ponds for storage if determined to be a more effective solution.

**Morton Street Pump Station CSO Improvements**

The projects associated with this LTCP control measure would allow for excess wet weather flows from the Morton Street Pump Station to be diverted to the Wet Weather Ponds for temporary storage until the wet weather event is over as part of efforts to reduce untreated CSO's to local waterways. The facilities would typically consist of pump station modifications, force main, floatables control and site improvements.

1                   Three Rivers Protection and Overflow Reduction Tunnel (3RPORT) Program – Wayne  
2                   Street and St Mary's Parallel Interceptors

3                   This program is a combination of projects that are key component of the LTCP. The  
4                   main component is the construction of a large diameter sewer tunnel from the southern  
5                   side of the combined sewer system along the St Marys River north and then east along  
6                   the Maumee River to the WPCP. This new sewer would allow a significant increase in  
7                   wet weather flows from existing interceptors and CSO outfalls to be transported to the  
8                   WPCP for treatment - or to the WWPS for storage in the Wet Weather Ponds, instead  
9                   of overflowing into the local waterways. The program/project includes a deep rock  
10                  tunnel, drop shafts and associated screening and odor control facilities, collector and  
11                  relief/conveyance sewers, floatables control at outfalls, and the tunnel dewatering  
12                  pump station. This project is currently projected to start construction in 2017 and is  
13                  currently estimated to take at least 5 years to complete.

14                  East Wayne Street Parallel Interceptor – South Maumee Relief Sewer

15                  This LTCP capacity project generally consists of a new sewer running east from the  
16                  WPCP to approximately Coliseum Blvd. The relief sewer would capture wet weather  
17                  flows from the combined system basins and CSO outfalls east of the WPCP and  
18                  transport them to the WPCP for treatment, as well as provide relief to surcharging in  
19                  the South Maumee Interceptor during wet weather events.

20                  Floatable Control Facilities

21                  These projects are proposed to construct structures or facilities for the screening and  
22                  removal of floatables from the CSO outfalls in the collection system as required by the  
23                  LTCP. The sizing of these facilities is dependent on many variables for each site, but  
24                  the City intends, as much as reasonable, to utilize similar methods of removal for each  
25                  type of site.

26                  Rothman & North/South Maumee Capacity Improvements

27                  This category of work will consist of a combination of projects and efforts directed  
28                  towards the reduction and mitigation of sanitary sewer overflows and surcharging in the  
29                  existing sanitary sewer collection system. Areas of work identified for potential  
30                  improvements include sewer infrastructure serving and areas tributary to these  
                    subbasins. Work may include sewer rehabilitation, relief sewer construction, wet  
                    weather storage/equalization improvements, manhole rehabilitation and other  
                    collection system improvements as determined necessary by ongoing engineering and  
                    operational studies of the areas.

Northern Area, Southeast Area, Southwest Area, Spy Run, Neuhaus, Beckett's Run,  
                    ND Washington – Interceptor Relief & Capacity Improvements

                    This category of work will consist of a combination of projects and efforts directed  
                    towards the reduction and mitigation of sanitary sewer surcharging in the existing

sanitary sewer collection system. Areas of work identified for potential improvements include sewer infrastructure serving and areas tributary to the subbasins associated with these interceptors. Work may include sewer rehabilitation, relief sewer construction, wet weather storage/equalization improvements, wet weather pump stations, manhole rehabilitation, infiltration and inflow reduction projects and other collection system improvements as determined necessary by ongoing engineering and operational studies of the areas.

#### Collection System Improvements – Sewer Rehab Program

The goal of the Sewer Repair and Replacement Program is to develop, implement and monitor sewer repair/replacement strategies to proactively, following standard industry asset management principles, identify deteriorating areas of the sewer collection system. It is also to coordinate review and analysis of sewer maintenance data to select and prioritize collection system renewal, repair and replacement projects. Cured in Place Piping (CIPP) and other trenchless construction technologies are often utilized, but sometimes the construction of improvements requires open cut installation and excavation for underground sewer infrastructure.

#### WPCP and Wastewater Facility Expansion and Access Improvements

The WPCP is increasing its treatment capacity from 60 million gallons per day (MGD) to 85 MGD as part of the LTCP and a new tunnel is being constructed from the WPCP to bring additional flow to the WPCP and Wet Weather facilities. In conjunction with the LTCP and future growth planning, a multi-year improvement plan is being constructed and additional buildings, facilities and structures are being added to the WPCP and Wet Weather Pond areas. Additional land and access routes are required to allow for more cost effective construction, operation and expansion of facilities in these areas.

#### Digester & Methane System Improvements

The WPCP is increasing its treatment capacity from 60 million gallons per day (MGD) to 85 MGD at part of the LTCP. In conjunction with this increase, a multi-phase digester improvement program is currently being implemented in the capital program. Currently, six (6) digesters are in service which allows the City to produce class "A" sludge. Four (4) digesters and other important digester support systems have been rehabilitated in the last several years. In an effort to reliably support the increased treatment capacity required by the LTCP, the City must make safety and operational improvements to remaining two (2) digesters, the boilers and heat exchangers that serve the digester and WPCP facilities, as well as the digested sludge force main system. These improvements are being implemented in a sustainable manner so that methane produced by the digestion process can be utilized to produce heat and power for use at the WPCP and is intended to reduce operational costs.

#### Dissolved Oxygen and Aeration System Improvements

1 The WPCP is increasing its treatment capacity from 60 million gallons per day (MGD)  
2 to 85 MGD at part of the LTCP. In conjunction with this increase, aeration systems for  
3 both treatment and final effluent quality are being rehabilitated and upgraded as  
4 necessary in an effort to reliably support the increased treatment capacity required by  
5 the LTCP and meet its discharge permit requirements. These improvements are being  
6 implemented in a sustainable manner so that the electrical power necessary to run the  
7 associated blowers and systems is minimized, as much as reasonable and is intended  
8 to reduce operational costs.  
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EXHIBIT B

FORM OF REGISTERED BOND

[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

[TAXABLE] CITY OF FORT WAYNE  
SEWAGE WORKS REVENUE BOND OF \_\_\_\_\_, SERIES \_\_\_\_\_]

| Interest<br>Rate | [Maturity<br>Date] | Original<br>Date | Authentication<br>Date | [CUSIP] |
|------------------|--------------------|------------------|------------------------|---------|
|------------------|--------------------|------------------|------------------------|---------|

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[, or so much thereof as may be advanced from time to time and be outstanding as evidenced by the records of the registered owner making payment for this bond, or its assigns,] on [the Maturity Date set forth above] OR [on the dates and in the amounts as set forth on Exhibit A attached hereto] (unless this bond be subject to and shall have been duly called for redemption and payment as provided for herein), and to pay interest hereon until the Principal Sum shall be fully paid at the rate per annum specified above from [the dates of payment made on this bond] OR [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 in which case it shall bear interest from such interest payment date, or unless this bond is authenticated on or before \_\_\_\_\_ 15, \_\_\_\_\_, 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 \_\_\_\_\_ 1, 20\_\_\_. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

[The principal of this bond is payable at the principal office of \_\_\_\_\_ ("Registrar" or "Paying Agent"), in the \_\_\_\_\_ of \_\_\_\_\_, Indiana.] All payments of [principal of and] interest on this bond shall be paid by [check mailed one business day prior to the interest payment date] **OR** [wire transfer for deposit to a financial institution as directed by the Indiana Finance Authority ("Authority") on the due date or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date] to the registered owner hereof, as of the fifteenth day of the month preceding such payment, at the address as it appears on the registration books kept by [\_\_\_\_\_] ("Registrar" or "Paying Agent") in the \_\_\_\_\_ of \_\_\_\_\_, Indiana] **OR** [the Registrar] or at such other address as is provided to the Paying Agent in writing by the registered owner. [If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time).] All payments on the Bond shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

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

This bond is [the only] one of an authorized issue of bonds of the City[, issued in series] [of like date, tenor and effect, [except as to rates of interest[series designation,]] and dates of maturity] aggregating \_\_\_\_\_ Dollars (\$\_\_\_\_\_) [for this series]; numbered consecutively from 1 up; issued for the purpose of providing funds to be applied on the cost of additions, extensions and improvements to the sewage works system of the City ("Project")[, to refund interim notes issued in anticipation of the bonds] and to pay issuance expenses [including premium[s] for municipal bond insurance [and 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 \_\_\_\_\_, 2014, entitled "An Ordinance of the Common Council of the City of Fort Wayne, Indiana, authorizing the acquisition and installation of certain improvements to the City's sewage works, the issuance and sale of additional revenue bonds to provide funds for the payment of the costs thereof, and the collection, segregation and distribution of the revenues of such sewage works and other related matters" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 36-9-23 as in

1 effect on the date of delivery of the bonds of this issue ("Act"), the proceeds of which  
2 bonds are to be applied to the costs of the Project, [the payment of notes issued in  
3 anticipation of the bonds,] and expenses incurred in connection therewith.

4 [Reference is hereby made to the Financial Assistance Agreement ("Financial  
5 Assistance Agreement") between the City and the Authority concerning certain terms  
6 and covenants pertaining to the Project and the purchase of this bond as part of the  
wastewater loan program established and existing pursuant to IC 4-4-11 and IC 13-18-  
13.]

7 Pursuant to the provisions of the Act and the Ordinance, the principal of and  
8 interest on this bond and all other bonds of said issue, [including the Sewage Works  
9 Revenue Bonds of 20 \_\_, Series \_\_ ("Series \_\_ Bonds")] and any bonds hereafter  
10 issued on a parity therewith are payable solely from the Sewage Works Sinking Fund  
11 continued by the Ordinance ("Sinking Fund") to be provided from the Net Revenues  
12 (defined as gross revenues after deduction only for the payment of the reasonable  
expenses of operation, repair and maintenance, excluding transfers for payments in lieu  
of property taxes) of the sewage works of the City. This bond and the issue of which it  
is a part constitute a first charge upon the Net Revenues and shall rank on a parity with  
the Prior Bonds, as defined in the Ordinance [and the Series \_\_ Bonds].

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

22 The City further covenants that it will set aside and pay into its Sinking Fund  
23 monthly, as available, or more often if necessary, a sufficient amount of the Net  
24 Revenues of the sewage works for payment of (a) the interest on all bonds which by  
25 their terms are payable from the revenues of the sewage works, as such interest shall fall  
26 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  
27 works, as such principal shall fall due, and (d) an additional amount as a margin of  
28 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 Prior Bonds [and the Series \_\_ Bonds].

The bonds of this issue maturing on and after \_\_\_\_\_ 1, 20\_\_\_\_, are redeemable at the option of the City on \_\_\_\_\_ 1, 20\_\_\_\_, or any date thereafter, on [sixty (60)] [thirty (30)] days' notice, in whole or in part, [in inverse order of maturity] **OR** [in the order of maturity as determined by the City] and by lot within a maturity, at face value, together with the following premiums:

\_\_\_\_% if redeemed on \_\_\_\_\_ 1, 20\_\_\_\_ or thereafter  
on or before \_\_\_\_\_, 20\_\_\_\_;  
\_\_\_\_% if redeemed on \_\_\_\_\_ 1, 20\_\_\_\_ or thereafter  
on or before \_\_\_\_\_, 20\_\_\_\_;  
0% if redeemed on \_\_\_\_\_ 1, 20\_\_\_\_ or thereafter  
prior to maturity;

plus accrued interest to the date fixed for redemption[]; provided, however, if the bonds are sold to the SRF Program and registered in the name of the Authority, the bond shall not be redeemable at the option of the City unless and until consented to by the Authority].

[The bonds maturing on \_\_\_\_\_ 1, 20\_\_\_\_, are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on the dates and in the amounts set forth below:

| <u>Term Bond</u> |               |
|------------------|---------------|
| <u>Date</u>      | <u>Amount</u> |
| *                |               |

\* Final Maturity]

Each [Five Thousand Dollars (\$5,000)] [One Dollar (\$1)] principal amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. If less than an entire maturity is called for redemption, the bonds to be redeemed shall be selected by lot by the Registrar. [If some bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.]

Notice of such redemption shall be mailed to the address of the registered owner as shown on the registration records of the City, as of the date which is [sixty-five (65)] [forty-five (45)] days prior to such redemption date, not less than [sixty (60)] [thirty (30)] days prior to the date fixed for redemption unless the notice is waived by the registered owner of this bond. The notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption. The place of redemption may be determined by the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

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

6 This bond is transferable or exchangeable only upon the books of the City kept  
7 for that purpose at the [principal corporate trust] office of the Registrar by the registered  
8 owner hereof in person, or by his attorney duly authorized in writing, upon surrender of  
9 this bond together with a written instrument of transfer or exchange satisfactory to the  
10 Registrar duly executed by the registered owner, or his attorney duly authorized in  
11 writing, and thereupon a new fully registered bond or bonds in an authorized aggregate  
12 principal amount and of the same maturity, shall be executed and delivered in the name  
13 of the transferee or transferees or to the registered owner, as the case may be, in  
14 exchange therefor. This bond may be transferred without cost to the registered owner  
15 except for any tax or governmental charge required to be paid with respect to the  
16 transfer. The City, the Registrar, the Paying Agent and any other registrar or paying  
17 agent for this bond may treat and consider the person in whose name this bond is  
18 registered as the absolute owner hereof for all purposes including for the purpose of  
19 receiving payment of, or on account of, the principal hereof and interest due hereon.

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

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

The bonds maturing in any one year are issuable only in fully registered form in  
the denomination of [\$5,000] [\$1] or any integral multiple thereof.

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

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

IN WITNESS WHEREOF, the City of Fort Wayne, in Allen County, Indiana,  
has caused this bond to be executed in its corporate name by the manual or facsimile

signature of its Mayor, countersigned by the manual or facsimile signature of the Controller, and its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk.

CITY OF FORT WAYNE, INDIANA

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

COUNTERSIGNED:

By \_\_\_\_\_  
Controller

[SEAL]

Attest:

\_\_\_\_\_  
Clerk

#### REGISTRAR'S CERTIFICATE OF AUTHENTICATION

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

\_\_\_\_\_  
as Registrar

By \_\_\_\_\_  
Authorized Representative

#### ASSIGNMENT

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

Dated: \_\_\_\_\_

1  
2 NOTICE: Signature(s) must be guaranteed by  
3 an eligible guarantor institution participating in  
4 a Securities Transfer Association recognized  
5 signature guarantee program.

NOTICE: The signature to this assignmen  
must correspond with the name as it appears on  
the face of the within bond in every particular  
without alteration or enlargement or any  
change whatsoever.

6 [EXHIBIT A

7 [To be completed on a separate page]

# Interoffice Memo

Date: **July 2, 2014**

To: Common Council Members

From: **Kumar Menon**, Director, City Utilities

RE: **Ordinance Authorizing Revenue Bonds**  
**Companion Ordinance to Ordinance Amending Chapter 51 (Sewers) –**  
**Rate Adjustments**

Herewith you will find an ordinance authorizing \$257,470,000 in Fort Wayne Water Pollution Control (WPC) Utility Revenue Bonds to be issued over the upcoming five years.

The proposed revenue bonds are an integral cost component in the just-completed Sewer Cost of Service Study that fairly allocates sewer utility costs across various types of customers based on the cost incurred by the utility in serving each customer type. This ordinance and the rate ordinance are co-dependent.

The proposed revenue bonds are necessary to fund the continuation of Fort Wayne's compliance with the unfunded Federal mandate or Consent Decree – the agreement we negotiated with the federal government for how we will reduce the amount of combined sewage going to our rivers each year and how we will operate and maintain our sewer system to protect neighborhoods by maximizing our ability to collect, convey and treat sewage. The last five-year financing plan that you approved in 2009 allowed City Utilities to finance the first phase of our Consent Decree work in compliance with all of our agreed milestones and deadlines. Your approval of our last five-year plan also provided comfort to financial markets and allowed us to improve City Utilities' bond rating.

Following review and approval of this ordinance and its companion rate ordinance, this ordinance will become effective immediately.

CC: BOW  
Kumar Menon  
Diane Brown

RESOLUTION # 101-7-2-14-1  
BOARD OF PUBLIC WORKS  
OF THE CITY OF FORT WAYNE

WHEREAS, the City of Fort Wayne, Indiana ("City"), owns, operates and maintains a municipal sewage works ("Utility"), by and through the Fort Wayne Board of Public Works ("Board");

WHEREAS, the Board, after careful and due consideration, finds it to be in the best interests of the Utility and the customers thereof that the Utility proceed to acquire and install certain improvements to the City's sewage works ("Project");

WHEREAS, the Board has found that it is necessary to complete the Project through the issuance of sewage works revenue bonds, in one or more series;

WHEREAS, the Board finds that the legal determination to authorize the issuance of such bonds rests exclusively with the Common Council of the City of Fort Wayne, Indiana ("Common Council"); and,

WHEREAS, the Board desires to take such steps as are necessary and convenient to permit the Project to proceed;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE FORT WAYNE BOARD OF PUBLIC WORKS THAT:

Section 1. It is in the best interests of the Utility and the customers thereof that the City proceed with the construction of the Project.

Section 2. The Board does hereby recommend to the Common Council that the City issue its sewage works revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$257,470,000, with each series of bonds to be repaid over a term not to exceed thirty (30) years, and at an interest rate not to exceed 8% percent per annum.

Section 3. There is attached to this resolution and made a part hereof the same as if fully set forth herein, a proposed ordinance authorizing the Project, the issuance of the bonds and other matters connected therewith, which the Board hereby recommends to the Common Council for its adoption.

Section 4. All resolutions or parts thereof in conflict herewith are hereby repealed.

Section 5. This resolution shall be in full force and effect upon adoption.