BILL NO. S-18-06-07

ORDINANCE NO. ________

An Ordinance of the City of Fort Wayne authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith

WHEREAS, the City of Fort Wayne ("City") now owns and operates a municipal waterworks in accordance with the provisions of Title 8, Article 1.5 of the Indiana Code, as in effect on the date of delivery of the bonds herein authorized ("Act"); and

WHEREAS, the Board of Public Works ("Board") of the City has adopted a resolution advising the Common Council of the City that the waterworks is in need of certain additions, improvements and extensions; and

WHEREAS, the Common Council of the City has considered the Board's resolution and has determined that certain additions, improvements and extensions to said works are necessary and that preliminary plans and specifications and estimates have been prepared and filed by the engineers employed by the City for the construction of said additions, improvements and extensions, as more fully described on Exhibit A attached hereto and made a part hereof ("Project"), which preliminary plans and specifications and engineering estimates have been or will be approved by the Common Council and by all governmental authorities having jurisdiction, particularly the Indiana Department of Environmental Management ("Department"); and

WHEREAS, the City will advertise for and receive bids for the construction of the Project, which bids will be subject to the City's determination to construct the Project and subject to the City's obtaining funds to pay for the Project; that on the basis of said engineering estimates, the maximum cost of the Project, including incidental expenses, is in the estimated amount of $85,570,000; and

WHEREAS, the Common Council finds that it does not have sufficient funds on hand available to apply to the costs of the Project, and that the entire cost of the Project is hereby authorized to be financed by the issuance of waterworks revenue bonds, in one or more series, and, if necessary, bond anticipation notes ("BANs"), in one or more series, in an aggregate principal amount not to exceed $85,570,000; and

WHEREAS, the Common Council finds that there are outstanding bonds payable out of the Net Revenues (as hereinafter defined) of the City's waterworks designated: (a) "Waterworks Revenue Bonds of 2005" ("2005 Bonds"), now outstanding in the amount of $4,595,000 and maturing annually over a period ending December 1, 2019; (b) "Waterworks Revenue Bonds of 2006" ("2006 Bonds"), now outstanding in the amount of $10,410,000 and maturing annually over a period ending December 1, 2021; (c) "Waterworks Revenue Bonds of 2011, Series B ("2011B Bonds"), now outstanding in the amount of $23,260,000 and maturing annually over a period ending December 1, 2031; (d) "Waterworks Revenue Bonds of 2012 ("2012 Bonds"), now outstanding in the amount of $35,005,000 and maturing annually over a period ending December 1, 2032; and (e) "Waterworks Revenue Bonds of 2014 ("2014 Bonds"), now outstanding in the amount of $61,340,000 and maturing annually over a period ending December 1, 2032 and semiannually from June 1, 2033 through December 1, 2034, which 2005 Bonds, 2006 Bonds, 2011B Bonds, 2012 Bonds and 2014 Bonds each constitute a first charge upon the Net Revenues of the waterworks; and

WHEREAS, the terms and conditions of the ordinances authorizing the issuance of the now outstanding 2005 Bonds, 2006 Bonds, 2011B Bonds, 2012 Bonds and 2014 Bonds (hereinafter, collectively, "Outstanding Bonds") provide that additional revenue bonds may be issued on a parity with the Outstanding Bonds provided certain tests are met, and the City finds that the finances of the waterworks are such as will enable meeting the conditions for the issuance of additional parity bonds and that, accordingly, the additional revenue bonds to be issued hereunder shall rank on a parity with the Outstanding Bonds; and

WHEREAS, the City desires to authorize the issuance of bond anticipation notes ("BANs") hereunder, in one or more series, if necessary, payable from the proceeds of waterworks revenue bonds issued hereunder and to authorize the refunding of the BANs, if issued; and

WHEREAS, the City is subject to the jurisdiction of the Indiana Utility Regulatory Commission ("IURC"); the approval of the IURC will be obtained by the City prior to the issuance of the bonds authorized in this ordinance; and

WHEREAS, the City shall enter into a Financial Assistance Agreement with the Indiana Finance Authority ("Authority") as part of its drinking water loan program ("DWSRF Program") established and existing pursuant to IC 5-1.2-4 and

IC 5-1.2-10 ("Financial Assistance Agreement") if any bonds or BANs are sold to the Authority through its DWSRF Program; and

WHEREAS, the City may accept other forms of financial assistance, as and if available from the DWSRF Program; and

WHEREAS, the Common Council has been advised that it may be cost efficient to purchase municipal bond insurance and a debt service reserve surety for all or a portion of the bonds authorized herein; and

WHEREAS, the City reasonably expects to reimburse certain preliminary costs of the Project with proceeds of debt to be incurred by the City in an amount not to exceed $85,570,000; and

WHEREAS, the bonds to be issued pursuant to this ordinance are to be issued subject to the provisions of the laws of the State of Indiana, including, without limitation, the Act, and the terms and restrictions of this ordinance; and

WHEREAS, the Common Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of revenue bonds and BANs have been complied with in accordance with the provisions of the Act;

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

Section 1. Authorization of Project; Reimbursement. The City shall proceed with the construction of the Project in accordance with the cost estimates and the preliminary plans and specifications heretofore prepared and filed by the consulting engineers employed by the City and are hereby adopted and approved, and by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein. Two copies of the preliminary plans and specifications and the cost estimates are on file in the office of the Clerk of the City and open for public inspection pursuant to IC 36-1-5-4. The estimated cost of construction of the Project will not exceed the sum of $85,570,000, plus investment earnings on the bond and BAN proceeds. The terms "waterworks," "waterworks system," "system," "works," and other like terms where used in this ordinance shall be construed to mean and include the Drinking Water System, as defined in the Financial Assistance Agreement, and includes the City's existing water distribution system, and all real estate and equipment used in connection therewith and appurtenances thereto, and all extensions, additions, and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired, including the Project. The Project shall be constructed in accordance with the preliminary plans and specifications heretofore mentioned, which preliminary plans and specifications are hereby approved. The Project shall be constructed and the bonds herein authorized shall be issued pursuant to and in accordance with the Act.

The City hereby declares its official intent to complete the Project; to reimburse certain costs of completing the Project with proceeds of debt to be incurred by the City, and to issue debt not exceeding $85,570,000 in aggregate principal amount for purposes of paying and reimbursing costs of the Project.

Section 2. Issuance of BANs and Bonds. (a) The City shall issue, if necessary, its BANs for the purpose of procuring interim financing to apply to the cost of the Project. The City shall issue its BANs, in one or more series, in an aggregate amount not to exceed Eighty-five Million Five Hundred Seventy

Thousand Dollars ($85,570,000) to be designated "[Taxable] Waterworks Bond Anticipation Notes of ___" (to be completed with the year in which issued and appropriate series designation, if any). The BANs shall be numbered consecutively from 1 upward, shall be sold at a price not less than 98.5% of their par value or at a price not less than 100% of their par value if sold to the Authority as part of the DWSRF Program, shall be in multiples of One Dollar ($1) if sold to the Authority as part of its DWSRF Program or in denominations of One Thousand Dollars ($1,000) or integral multiples thereof if sold to another purchaser, as set forth in the hereinafter defined Purchase Agreement for the BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed 6% per annum (the exact rate or rates to be determined through negotiation) payable upon maturity. The BANs will mature no later than five (5) years after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed 6% per annum (the exact rate or rates to be negotiated). The term of the BANs and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof.

Notwithstanding anything in this ordinance to the contrary, any series of BANs issued hereunder may bear interest that is taxable and included in the gross income of the owners thereof. If any BANs are issued on a taxable basis, the designated name shall include the term "Taxable" as the first word in the designated name.

The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank, pursuant to IC 5-1.2-4 and IC 5-1.2-10 if sold to the Authority, or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The principal of and interest on the BANs shall be payable solely from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act. The revenue bonds will be payable solely out of and constitute a first charge against the Net Revenues (herein defined as gross revenues, inclusive of System Development Charges (as hereinafter defined), of the waterworks of the City after deduction only for the payment of the reasonable expenses of operation, repair and maintenance, but not including depreciation and transfers for payment in lieu of property taxes ("PILOTs")) of the waterworks of the City, on a parity with the Outstanding Bonds. For purposes of this ordinance, "System Development Charges" shall mean the proceeds and balances from any non-recurring charges such as tap fees, subsequent connector fees, capacity or contribution fees, and other similar one-time charges that are available for deposit under this ordinance.

The City shall issue its waterworks revenue bonds, in one or more series, in an aggregate principal amount not to exceed $85,570,000 to be designated "[Taxable] Waterworks Revenue Bonds of _____" (to be completed with the year in which issued and series designation, if any) ("Bonds") for the purpose of procuring funds to be applied on the cost of the Project, funding the Reserve Account continued herein, the payment of costs of issuance, including a premium for municipal bond insurance and a debt service reserve surety, if any, refunding the BANs, if issued, and all other costs related to the Project. Each series of Bonds shall be sold at a price of not less than par value if sold to the Authority as part of its DWSRF Program or not less than 99% of their par value if sold to any other purchaser, as applicable, and shall be issued in the denomination of One Dollar ($1) or any multiple thereof if sold to the Authority through its DWSRF Program or in denominations of Five Thousand Dollars ($5,000) each or integral multiples thereof if sold to any other purchaser, numbered consecutively from 1 upward, dated as of the date of delivery, and shall bear interest at a rate or rates not exceeding seven percent (7%) per annum (the exact rate or rates to be determined by bidding or through negotiation with the Authority as part of its DWSRF Program), payable semiannually on June 1 and December 1 in each year, beginning on the first June 1 or the first December 1 following the date of delivery of the Bonds, as determined by the Controller with the advice of the City's financial advisor. Principal shall be payable in lawful money of the United States of America, at the principal office of the Paying Agent (as hereinafter defined) and the Bonds shall mature annually, or shall be subject to mandatory sinking fund redemption if term bonds are issued, on December 1 of each year, through December 1, 2032, and semiannually thereafter on June 1 and December 1 commencing June 1, 2033, over a period ending no later than December 1, 2056, and in such amounts that will either: (i) produce as level annual debt service as practicable taking into account the annual debt service on the Outstanding Bonds and all Bonds issued hereunder; (ii) produce as level annual debt service as practicable; or (iii) if the Bonds are sold to the Authority as part of its DWSRF Program, allow the City to meet the coverage and/or amortization requirements of the DWSRF Program. If the Bonds are sold to the Authority as part of its DWSRF Program, such debt service schedule shall be finalized and set forth in the Financial Assistance Agreement.

All or a portion of the Bonds may be issued as one or more term bonds, upon election of the successful bidder. Such term bonds shall have a stated maturity or maturities on December 1 for Bonds that mature annually and on June 1 and December 1 for Bonds that mature semiannually on the dates as determined by the successful bidder, but in no event later than the last serial maturity date of the Bonds as determined in accordance with the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates which are hereinafter determined in accordance with the above paragraph.

Each series of Bonds issued hereunder shall rank on a parity for all purposes under this ordinance, including the pledge of Net Revenues.

Interest on the Bonds and BANs shall be calculated according to a 360-day calendar year containing twelve 30-day months.

Notwithstanding anything in this ordinance to the contrary, any series of Bonds issued hereunder may bear interest that is taxable and included in the gross income of the owners thereof. If any such Bonds are issued on a taxable basis, the designated name shall include the term "Taxable" as the first word in the designated name.

Section 3. Registrar and Paying Agent; Book-entry Provisions. (a) The Controller is hereby authorized to contract with a qualified financial institution to serve as Registrar and Paying Agent for the Bonds ("Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the Bonds. The Controller is hereby authorized to enter into such agreements or understandings with the Registrar as will enable the institution to perform the services required of a registrar and paying agent. The Controller is further authorized to pay such fees as the Registrar may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Waterworks Sinking Fund established to pay the principal of and interest on the Bonds as fiscal agency charges.

As to the BANs and as to the Bonds, if the purchaser does not object to such designation, the Controller may serve as Registrar and Paying Agent and, in that case, is hereby charged with the performance of and all duties of and responsibilities of Registrar and Paying Agent.

(b) If the Bonds or BANs are sold to the Authority through its DWSRF Program, the principal of and interest thereon shall be paid by wire transfer to such financial institution if and as directed by the Authority on the due date of such payment 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. So long as the Authority, as part of its DWSRF Program, is the owner of the Bonds or BANs, such Bonds and BANs shall be presented for payment as directed by the Authority.

If such Bonds are not sold to the Authority as part of its DWSRF Program or if wire transfer payment is not required, the principal of the Bonds and the principal and interest on the BANs shall be payable at the principal corporate trust office of the Paying Agent. All payments of interest on the Bonds shall be paid by check mailed to the registered owners thereof, as of the fifteenth day of the month preceding each interest payment date ("Record Date"), at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner on or before such Record Date. 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 be instructed to 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). Notwithstanding anything to the contrary herein, the Bonds shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of the Bonds or earlier payment in full of the Bonds.

All payments on the Bonds and BANs shall be made in any coin or currency of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

(c) Each Bond shall be transferable or exchangeable only upon the books of the City kept for that purpose at the principal corporate trust office of the Registrar by the registered owner in person, or by its attorney duly authorized in writing, upon surrender of such Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City except for any tax or governmental charge required to be paid with respect to the transfer or exchange, which taxes or governmental charges are payable by the person requesting such transfer or exchange. The City, Registrar and Paying Agent for the Bonds may treat and consider the person in whose name such Bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

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

Upon the appointment of any successor registrar and paying agent by the City, the Controller is authorized and directed to enter into such agreements and understandings with such successor registrar and paying agent as will enable the institution to perform the services required of a registrar and paying agent for the Bonds. The Controller is further authorized to pay such fees as the successor registrar and paying agent may charge for the services it provides as registrar and paying agent and such fees may be paid from the Waterworks Sinking Fund continued in Section 14 hereof. Any predecessor registrar and paying agent shall deliver all of the Bonds and any cash or investments in its possession with respect thereto, together with the registration books, to the successor registrar and paying agent.

(e) Interest on the Bonds sold to the Authority as part of its DWSRF Program shall be payable from the date or dates of payment made by the Authority as part of its purchase of the Bonds pursuant to the Financial Assistance Agreement. Interest on all other Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the Bonds unless the Bonds are authenticated after the Record Date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless the Bonds are authenticated on or before the Record Date preceding the first interest payment date, in which case they shall bear interest from the original date until the principal shall be fully paid.

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

With respect to the Bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, the City and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner")) of the Bonds with respect to (i) the accuracy of the records of the Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any notice with respect to the Bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the Bonds except as otherwise provided herein.

No person other than the Depository Trust Company shall receive an authenticated Bond evidencing an obligation of the City to make payments of the principal of and premium, if any, and interest on the Bonds pursuant to this ordinance. The City and the Registrar and Paying Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Bonds; (iii) registering transfers with respect to such Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the order of the Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the City's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the City of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this ordinance shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any Bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the City to the Depository Trust Company.

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

If the City determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered Bonds, the City may notify the Depository Trust Company and the Registrar, whereupon the Depository Trust Company will notify the Beneficial Owners of the availability through the Depository Trust Company of certificates for the Bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the Bonds as requested by the Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever the Depository Trust Company requests the City and the Registrar to do so, the Registrar and the City will cooperate with the Depository Trust Company by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered Bonds of any Beneficial Owner's Depository Trust Company account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the Bonds.

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

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

So long as the Bonds are registered in the name of the Depository Trust Company or CEDE & CO. or any substitute nominee, the City and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the Beneficial Owners of the Bonds or from the Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the Bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and the Depository Trust Company, to the same extent as if such consent, advice, direction, demand or vote were made by the bondholders for purposes of this ordinance and the City and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the bondholders. Along with any such certificate or representation, the Registrar may request the Depository Trust Company to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the Bonds, together with the dollar amount of each Beneficial Owner's interest in the Bonds and the current addresses of such Beneficial Owners.

Section 4. Redemption of Bonds and BANs. (a) Commencing 180 days after their date of issuance, the BANs are prepayable by the City, in whole or in part, on any date, upon 20 days' notice to the owner of the BANs, without premium.

(b) For any Bonds sold to the Authority as part of its DWSRF Program, such Bonds are redeemable at the option of the City, but no sooner than ten (10) years after their date of delivery, or any date thereafter, on sixty (60) days' notice, in whole or in part, in inverse order of maturity, and by lot within a maturity, at face value together with a premium no greater than 2%, plus accrued interest to the date fixed for redemption; provided, however, if the Bonds are sold to the DWSRF Program and registered in the name of the Authority, the Bonds shall not be redeemable at the option of the City unless and until consented to by the Authority. The exact redemption dates and premiums shall be established by the Controller, with the advice of the City's financial advisor, prior to the sale of the Bonds.

(c) For any series of Bonds not sold to the Authority as part of its DWSRF Program, such Bonds are redeemable at the option of the City, but no earlier than eight (8) years after their date of delivery and on any date thereafter, in whole or in part, in the order of maturity as determined by the City, and by lot within a maturity, on thirty (30) days' notice, at face value, with a premium no greater than 1%, plus accrued interest to the date fixed for redemption. The exact redemption dates and premiums shall be established by the Controller, with the advice of the City's financial advisor, prior to the sale of the Bonds.

(d) If any Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the City, any Bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each Bond maturing as a term bond so delivered or cancelled shall be credited by the Paying Agent at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such Bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date.

Each authorized denomination shall be considered a separate bond for purposes of optional and mandatory redemption. If less than an entire maturity is called for redemption at one time, the Bonds to be redeemed shall be selected by lot within a maturity 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.

(e) Notice of redemption shall be given not less than sixty (60) days for Bonds sold to the Authority as part of its DWSRF Program and not less than thirty (30) days for Bonds sold to any other purchaser prior to the date fixed for redemption unless such redemption notice is waived by the owner of the Bond or Bonds redeemed. Such notice shall be mailed to the address of the registered owner as shown on the registration record of the City as of the date which is sixty-five (65) days for Bonds sold to the Authority as part of its DWSRF Program and forty-five (45) days for Bonds sold to any other purchaser prior to such redemption date. 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.

Section 5. Execution and Negotiability. Each series of Bonds and BANs shall be executed in the name of the City by the manual or facsimile signature of the Mayor, countersigned by the manual or facsimile signature of the Controller, and attested by the manual or facsimile signature of its Clerk, and the seal of the City shall be affixed, imprinted or impressed to or on each of the Bonds and BANs manually, by facsimile or any other means; and these officials, by the execution of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures the facsimile signatures appearing on the Bonds or BANs. In case any officer whose signature or facsimile signature appears on the Bonds or BANs shall cease to be such officer before the delivery of the Bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

The Bonds and BANs shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein.

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

Section 6. Form of Bonds. The form and tenor of the Bonds shall be substantially as follows, all blanks to be filled in properly prior to delivery:

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Fort Wayne, Indiana, or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE

HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

NO. _____

UNITED STATES OF AMERICA

STATE OF INDIANA COUNTY OF ALLEN

CITY OF FORT WAYNE
[TAXABLE] WATERWORKS REVENUE BOND OF _____[, SERIES ___]

[INTEREST RATE]	[MATURITY DATE]	ORIGINAL DATE	AUTHENTICATION 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** [the dates and in the amounts as set forth on Exhibit A attached hereto] (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest hereon until the Principal Sum shall be fully paid at the interest rate[s] per annum stated [above] **OR** [on Exhibit A attached hereto] 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 date in which case it shall bear interest from such interest payment date, or unless this bond is authenticated on or before ____________ 15, 20__, which case it shall bear interest from the Original Date,] which interest is payable semiannually on June 1 and December 1 of 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 corporate trust] office of ____________________________ ("Registrar") or "Paying Agent"), in the ______ of __________________, _____________]. 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** [paid by 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 interest payment date 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. [Notwithstanding anything to the contrary herein, this bond shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of this bond or earlier payment in full of this bond.] [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 [[to be] [issued in series][, of like date, tenor and effect, except as to numbering, interest rate[, series designation,] and date of maturity]; in the total amount of ______________________________ Dollars ($______________); numbered consecutively from 1 up; issued for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipally owned waterworks system of the City[, to refund interim notes issued in anticipation of the bonds] and to pay issuance expenses[, including a municipal bond insurance premium][a debt service reserve surety premium]. This bond is issued pursuant to an ordinance adopted by the Common Council of the City on the ___ day of _________, 2018, entitled "An Ordinance of the City of Fort Wayne authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 8-1.5 as in effect on the date of delivery of the bonds of this issue ("Act").

[Reference is hereby made to the Financial Assistance Agreement ("Financial Assistance Agreement") between the City and the Authority concerning certain terms and covenants pertaining to the waterworks project and the purchase of this bond as part of the drinking water loan program established and existing pursuant to IC 5-1.2-4 and IC 5-1.2-10.]

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this bond and all other bonds of said issue, [including the Waterworks Revenue Bonds of _______, Series ___ ("Series ____ Bonds")] and any bonds hereafter issued on a parity therewith are payable solely from the Waterworks Sinking Fund continued by the Ordinance ("Sinking Fund") to be provided from the Net Revenues (defined as the gross revenues, inclusive of System Development Charges (as defined in the Ordinance), after deduction only for the payment of the reasonable expenses of operation, repair and maintenance, but not including depreciation and payments in lieu of property taxes) of the waterworks of the City. This bond and the issue of which it is a part rank on a parity with the Outstanding Bonds (as defined in the Ordinance) [and the Series ____ Bonds], in accordance with the terms thereof.

The City irrevocably pledges the entire Net Revenues of the waterworks to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one, and any bonds ranking on a parity therewith, including the Outstanding Bonds [and the Series ____ Bonds], to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges 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 [Ordinance] [Financial Assistance Agreement]) of the waterworks 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 under Indiana law.

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

The bonds of this issue maturing on ___________ 1, 20__, and thereafter, 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] [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 _______________, or thereafter on or before __________;
____% if redeemed on _______________, or thereafter on or before __________;
____% if redeemed on _______________, or thereafter prior to maturity;

plus in each case accrued interest to the date fixed for redemption[; provided, however, if the bonds are sold to the DWSRF Program and registered in the name of the Authority, the bonds 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:

Term Bond Date	Term Bond Amount	Term Bond Date	Term Bond Amount
	*		*

*Final Maturity]

Each [One Dollar ($1)] **OR** [Five Thousand Dollar ($5,000)] 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 called 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 redemption shall be mailed to the address of the registered owner as shown on the registration record 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. 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.

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

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

This bond is subject to defeasance prior to redemption or payment as provided in the Ordinance referred to herein. THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. The Ordinance may be amended without the consent of the owners of the bonds as provided in the Ordinance.

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

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

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, 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

[STATEMENT OF INSURANCE]

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: ____________________

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.	NOTICE: The signature to this assignment 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.

[EXHIBIT A]

(End of Bond Form)

Section 7. Authorization for Preparation and Sale of the Bonds and BANs; Official Statement; Continuing Disclosure; Municipal Bond Insurance. (a) The Controller is hereby authorized and directed to have the Bonds and BANs prepared, and the Mayor, the Controller and the Clerk are hereby authorized and directed to execute and attest the Bonds and BANs in the form and manner provided herein.

(b) The Controller is hereby authorized and directed to deliver the Bonds and BANs to the respective purchasers thereof. At the time of delivery of the Bonds and BANs, the Controller shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than the par value of the BANs if sold to the Authority as part of its DWSRF Program, not less than 98.5% of the par value of the BANs if sold to any other purchaser, not less than the par value of the Bonds if sold to the Authority as part of its DWSRF Program, and not less than 99% of the par value of the Bonds if sold to any other purchaser, as the case may be, plus accrued interest to the date of delivery, if any. The City may receive payment on the BANs and the Bonds in installments. The Bonds, as and to the extent paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City payable out of the Net Revenues of the waterworks, on a parity with Outstanding Bonds, to be set aside into the Sinking Fund as herein provided. The proceeds derived from the sale of the Bonds shall be and are hereby set aside for application on the cost of the Project hereinbefore referred to, the refunding of the BANs, if issued, and the expenses necessarily incurred in connection with the BANs and Bonds. The proper officers of the City are hereby directed to sell the Bonds, to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

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

If an Official Statement is not required upon delivery of the Bonds, the City shall obtain an investment letter from the purchaser of the Bonds which satisfies federal and state securities laws applicable to the Bonds.

(d) If required under the Rule, the Mayor and Controller are hereby authorized and directed to complete, execute and attest a Continuing Disclosure

Undertaking ("Disclosure Undertaking") for the Bonds on behalf of the City, in a form consistent with this ordinance. Notwithstanding any other provisions of this ordinance, failure of the City to comply with the Disclosure Undertaking shall not be considered an event of default under the Bonds or this ordinance.

(b) In the event the financial advisor to the City certifies to the City that it would be economically advantageous for the City to obtain a municipal bond insurance policy or a debt service reserve surety for the Bonds, the City hereby authorizes the purchase of such an insurance policy or surety. The acquisition of a municipal bond insurance policy is hereby deemed economically advantageous in the event the difference between the present value cost of: (i) the total debt service on the Bonds if issued without municipal bond insurance; and (ii) the total debt service on the Bonds if issued with municipal bond insurance, is greater than the cost of the premium on the municipal bond insurance policy. If such an insurance policy or debt service reserve surety is purchased, the Mayor and the Controller are hereby authorized to execute and deliver all agreements with the provider of the policy or surety to the extent necessary to comply with the terms of such insurance policy or surety and the commitment to issue such policy or surety. Such agreement shall be deemed a part of this ordinance for all purposes and is hereby incorporated herein by reference.

Section 8. Sale of the Bonds; Award of Bonds. If the Bonds will be sold at a competitive sale, the Controller shall cause to be published either (i) a notice of such sale in the newspaper or newspapers which meet the requirements of IC 5-3-1, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in the newspaper or newspapers which meet the requirements of IC 5-3-1 and the *Court & Commercial Record*, all in accordance with IC 5-1-11 and IC 5-3-1. A notice or summary notice of sale may also be published one time in the *Court & Commercial Record*, and a notice or summary notice may also be published in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the Bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Controller and the attorneys employed by the City shall deem advisable and any summary notice may contain any information deemed so advisable. The notice will also state that the winning bidder will agree to assist the City in establishing the issue price of the Bonds under Treas. Reg. Section 1.148-1(f) ("Issue Price Regulation"). The criteria for establishing the issue price under the Issue Price Regulation shall be set forth in the preliminary Official Statement and/or the bid form. The notice may provide, among other things, that electronic bidding will be permitted and that the winning bidder shall be required to submit a certified or cashier's check in an amount equal to 1% of the principal amount of the Bonds described in the notice within twenty-four hours of the sale and that in the event the successful bidder shall fail or refuse to accept delivery of the Bonds and pay for the same as soon as the Bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default; that bidders for the Bonds will be required to name the rate or rates of interest which the Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-eighth (1/8) or one-hundredth (1/100) of one percent (1%). The notice may state that the rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid or bid for less than 99% of the face amount of the Bonds will be considered. The opinion of Ice Miller LLP, bond counsel of Indianapolis, Indiana, approving the legality of the Bonds, will be furnished to the purchaser at the expense of the City.

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

As an alternative to public sale, the Controller may negotiate the sale of the Bonds to the Authority as part of its DWSRF Program. The Mayor and the Controller are hereby authorized to: (i) submit an application to the Authority as part of its DWSRF Program; (ii) execute a Financial Assistance Agreement with the

Authority with terms conforming to this ordinance; and (iii) sell such Bonds upon such terms as are acceptable to the Mayor and the Controller consistent with the terms of this ordinance. The substantially final form of Financial Assistance Agreement attached hereto and incorporated herein by reference is hereby approved by the Common Council and the Mayor and Controller are hereby authorized to execute and deliver the same, and to approve any changes in form or substance to the Financial Assistance Agreement, which are consistent with the terms of this ordinance, such changes to be conclusively evidenced by its execution.

Notwithstanding anything contained herein, the City may accept any other forms of financial assistance, as and if available, from the DWSRF Program (including without limitation any forgivable loans, grants or other assistance whether available as an alternative to any Bond or BAN related provision otherwise provided for herein or as a supplement or addition thereto). If required by the DWSRF Program to be eligible for such financial assistance, one or more of the series of the Bonds issued hereunder may be issued on a basis such that the payment of the principal of or interest on (or both) such series of Bonds is junior and subordinate to the payment of the principal of and interest on other series of Bonds issued hereunder (and/or any other revenue bonds secured by a pledge of Net Revenues, whether now outstanding or hereafter issued), all as provided by the terms of such series of Bonds as modified pursuant to this authorization. Such financial assistance, if any, shall be provided in the Financial Assistance Agreement and the Bonds of each series of Bonds issued hereunder (including any modification made pursuant to the authorization in this paragraph to the form of Bonds otherwise contained herein).

Section 9. Financial Records and Accounts. (a) The City shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of the waterworks and all disbursements made therefrom and all transactions relating to the waterworks. Copies of all such statements and reports shall be kept on file in the office of the Controller.

(b) If any Bonds or BANs are sold to the Authority as part of its DWSRF Program, the City shall establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the waterworks in accordance with (i) generally accepted governmental accounting standards for utilities, on an accrual basis, as promulgated by the Government Accounting Standards Board and (ii) the rules, regulations and guidance of the State Board of Accounts.

Section 10. Premium. The premium received at the time of delivery of the Bonds, if any, shall be deposited in the Waterworks Sinking Fund continued in Section 14.

Section 11. Use of Proceeds and Costs of Issuance. The proceeds from the sale of the Bonds, to the extent not used to refund BANs, and BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as "City of Fort Wayne, Waterworks Construction Account" ("Construction Account"). All funds deposited to the credit of the Waterworks Sinking Fund or the Construction Account shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13, as amended and supplemented, and as applicable, pursuant to IC 5-1.2-4 11 and IC 5-1.2-10. The funds in the Construction Account shall be expended only for the purpose of paying the cost of the cost of the Project, refunding the BANs, if issued, or as otherwise required by the Act or for the expenses of issuance of the Bonds. The cost of obtaining the services of Ice Miller LLP, the City Attorney and H.J. Umbaugh & Associates, Certified Public Accountants, LLP shall be considered as a part of the cost of the Project on account of which the Bonds and BANs are issued.

Any balance or balances remaining unexpended in such special account or accounts after completion of the Project, which are not required to meet unpaid obligations incurred in connection with such Project, shall either (1) be paid into the Waterworks Sinking Fund and used solely for the purposes of the Waterworks Sinking Fund or (2) be used for the same purpose or type of project for which the Bonds were originally issued, all in accordance with IC 5-1-13, as amended and supplemented.

If any Bonds are sold to the Authority as part of its DWSRF Program, to the extent (a) that the total principal amount of the Bonds is not paid by the purchaser or drawn down by the City or (b) proceeds remain in the Construction Account and are not applied to the Project (or any modifications or additions thereto approved by the Department and the Authority), the City shall reduce the principal amount of the

Bond maturities to effect such reduction in a manner that will still achieve the annual debt service as described in Section 2 subject to and upon the terms forth in the Financial Assistance Agreement.

Each of the funds and accounts of the waterworks shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including, particularly, applicable provisions of Indiana Code 5-13-9, as amended and as applicable, pursuant to IC 5-1.2-4 and IC 5-1.2-10. Any interest or income derived from any such investments shall become a part of the moneys in the fund or account so invested.

Section 12. Pledge of Net Revenues. The interest on and the principal of the Bonds issued pursuant to the provisions of this ordinance, and any bonds hereafter issued on a parity therewith, shall constitute a first charge on all the Net Revenues, on a parity with the Outstanding Bonds, and such Net Revenues are hereby irrevocably pledged to the payment of the interest on and principal of such Bonds, to the extent necessary for that purpose. The City shall not be obligated to pay the Bonds or the interest thereon except for the Net Revenues, and the Bonds shall not constitute an indebtedness of the City within the meaning of the provisions and limitations of the constitution of the State of Indiana.

Section 13. Operation and Maintenance Fund. There shall be set apart and paid out of the gross revenues of the waterworks into a cash operating fund previously established and continued and designated as the Waterworks Operation and Maintenance Fund (the "Operation and Maintenance Fund") an amount necessary and sufficient to maintain a balance therein sufficient to pay the monthly costs of operating, repairing and maintaining said waterworks for at least the next two (2) ensuing calendar months. The moneys credited to the Operation and Maintenance Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the waterworks on a day-to-day basis, but none of the moneys in said fund shall be used for remediating depreciation, replacements, improvements, extensions or additions with respect to the waterworks. Any balance in the Operation and Maintenance Fund may be transferred to the Waterworks Sinking Fund if necessary to prevent a default in the payment of principal of or interest on outstanding bonds of the waterworks.

Section 14. Waterworks Sinking Fund. The Waterworks Sinking Fund ("Sinking Fund") previously established and continued hereby and designated and constituted as the special fund for the payment of the interest on and principal of revenue bonds which by their terms are payable from the Net Revenues of the waterworks (including any System Development Charges that are considered Net Revenues). The Sinking Fund shall continue be divided into two accounts hereby designated as the Waterworks Debt Service Account ("Debt Service Account") and the Waterworks Reserve Account ("Reserve Account"). Such payments shall continue until the balances in the Debt Service Account and the Reserve Account equal the principal of and interest on all of the then outstanding bonds of the waterworks to the final maturity and provide for payment of all fiscal agency charges.

There is hereby continued, within the Sinking Fund, the Debt Service Account. There shall be transferred on the last day of each month to the Debt Service Account an amount of the Net Revenues equal to (i) at least one-sixth (1/6) of the interest on all then outstanding bonds payable on the then next succeeding interest payment date, and (ii) at least one-twelfth (1/12) of the principal on all then outstanding bonds maturing through and including December 1, 2032, and thereafter at least one-sixth (1/6) of the principal on all then outstanding bonds payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding interest and principal payment dates shall have been so credited. There shall similarly be credited to the Account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on outstanding bonds as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Debt Service Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the principal and interest on the due dates thereof together with the amount of bank fiscal agency charges.

There is hereby continued, within the Sinking Fund, the Reserve Account which shall serve as the debt service reserve for all Outstanding Bonds and any Bonds issued hereunder. The City may deposit Bond proceeds, funds on hand, or a combination thereof, into the Reserve Account on the date of delivery of any series of Bonds to cause the balance therein to equal the hereinafter defined Reserve Requirement. If the balance does not equal the Reserve Requirement on the date of delivery of the Bonds, the City shall deposit a sum of Net Revenues of the waterworks into the Reserve Account on the last day of each calendar month until the balance therein equals the maximum annual debt service on the Bonds, the Outstanding Bonds, and any parity bonds issued in the future by the City which are payable from the Net Revenues of the waterworks ("Parity Bonds") ("Reserve Requirement"). The monthly deposits shall be equal in amount and sufficient to accumulate the Reserve Requirement within twelve (12) months of the date of delivery of the Bonds. After the 2005 Bonds and 2006 Bonds are no longer outstanding, the monthly deposits shall be equal in amount and sufficient to accumulate the Reserve Requirement within five (5) years of the date of delivery of the Bonds.

The Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the Bonds, the Outstanding Bonds and any Parity Bonds and the moneys in the Reserve Account shall be used to pay current principal and interest on the Bonds, the Outstanding Bonds and any Parity Bonds to the extent that moneys in the Debt Service Account are insufficient for that purpose. Amounts in the Reserve Account in excess of the Reserve Requirement shall be transferred from time to time to the Debt Service Account and thereupon applied to the required payments into the Debt Service Account as provided above or shall be transferred to the Depreciation Fund (as hereinafter defined). In the event moneys held in the Reserve Account are used to pay principal of and interest on the Outstanding Bonds, the Bonds or any Parity Bonds, then such depletion of the Reserve Account shall be made up from available Net Revenues within twelve (12) months from substantially equal monthly deposits, after required deposits to the Debt Service Account, to restore the balance of the Reserve Account to an amount equal to the Reserve Requirement.

All or a part of the Reserve Requirement for the Bonds issued under this ordinance may be deemed to be satisfied if there is on deposit in the Reserve Account, any surety bond, insurance policy, guaranty, letter of credit or other credit facility in any amount equal to the Reserve Requirement for the Bonds without regard to any Outstanding Bonds not secured by the surety. If any Bonds or Outstanding Bonds are owned by the Authority as part of its DWSRF Program, the City must obtain the consent of the Authority to provide funding in its Reserve Account as authorized in this paragraph. If any part of the Reserve Account for the Bonds is funded as authorized in this paragraph, the City is authorized to create a subaccount of the Reserve Account which only secures the Bonds.

After the Outstanding Bonds which are not owned by the Authority as part of its DWSRF Program are no longer outstanding (the 2005 Bonds, the 2012 Bonds and the 2014 Bonds), the City shall be authorized to create a subaccount within the Reserve Account to secure any Parity Bonds which are not sold to the Authority as part of its DWSRF Program to be funded at a level equal to the least of (i) maximum annual debt service on the Parity Bonds (not initially purchased by or for the account of the DWSRF Program); (ii) 125% of average annual debt service on the Parity Bonds (not initially purchased by or for the account of the DWSRF Program) or (iii) 10% of the proceeds of the Parity Bonds (not initially purchased by or for the account of the DWSRF Program) ("Open Market Reserve Requirement"). The subaccount shall be funded on a parity basis with the Reserve

Account with any withdraws from the Reserve Account and the subaccount being replenished on a parity basis.

So long as the 2005 Bonds and 2006 Bonds remain outstanding, in no event shall any part of the Sinking Fund be used in calling bonds for redemption prior to maturity except to the extent that the amount then in the Debt Service Account of the Sinking Fund exceeds the amount required to pay the bonds which will mature within a period of twelve (12) calendar months next following the date of such redemption, together with all interest on the bonds payable in said period. Any such excess of funds above said required level may also be used in purchasing outstanding bonds at a price less than the then applicable redemption price, if first approved by the Common Council. Moneys in the Sinking Fund shall not be used for any purpose whatsoever except as stated in this section.

If any Bonds are sold to the Authority as part of the DWSRF Program, the Sinking Fund, containing the Debt Service Account and the Reserve Account, and the Construction Account (to the extent funded with Bonds sold to the Authority as part of the DWSRF Program) may be held by a financial institution acceptable to the Authority, pursuant to terms acceptable to the Authority. If the Sinking Fund and the accounts therein are held in trust, the City shall transfer the monthly required amounts of Net Revenues to the Debt Service Account and the Reserve Account in accordance with this Section 14, and the financial institution holding such funds in trust shall be instructed to pay the required payments in accordance with the payment schedules for the City's outstanding bonds. The financial institution selected to serve in this role may also serve as Registrar and Paying

Agent for any series of the Bonds and for all or any of the outstanding bonds of the City. The financial institution selected to serve in this role may also serve as the Registrar and the Paying Agent for any series of the Bonds and for all or any of the outstanding bonds of the City. If the Construction Account is so held in trust, the City shall deposit the proceeds of the Bonds therein until such proceeds are applied consistent with this ordinance and the Financial Assistance Agreement with respect to the Bonds. The Mayor and the Controller are hereby authorized to execute and deliver an agreement with a financial institution to reflect this trust arrangement for all or a part of the Sinking Fund and the Construction Account in the form of trust agreement as approved by the Mayor and the Controller, consistent with the terms and provisions of this ordinance.

Section 15. Funding Improvements to the Waterworks. Any excess revenues of the waterworks available after making the deposits required by Sections 13 and 14 may be set aside and paid into the special utility fund which is hereby continued and designated as the Waterworks Depreciation Fund ("Depreciation Fund"), and be used to pay the cost of additions, improvements and extensions to the waterworks, and to make payments representing PILOTs. The City reserves the right to transfer PILOTs from the Depreciation Fund no more frequently than semiannually, in accordance with the Act, and only if all required transfers have been made to the Sinking Fund and the Accounts of the Sinking Fund contain the required balances as of the date the PILOTs are paid. If any BANs or Bonds are sold to the Authority as part of its DWSRF Program, so long as any of the BANs or Bonds are outstanding, no moneys derived from the revenues of the waterworks shall be transferred to the General Fund of the City or be used for any purpose not connected with the waterworks, other than to pay PILOTs as set forth in this section. In no event shall any PILOTs be treated as an expense of operation and maintenance, nor in any case shall it be payable from the Operation and Maintenance Fund or the Sinking Fund. No revenues of the waterworks shall be deposited in or credited to the Depreciation Fund which will interfere with the requirements of the Sinking Fund.

In the event of any deficiency at any time in the Operation and Maintenance Fund or the Sinking Fund, funds may be withdrawn from the Depreciation Fund for deposit into said Operation and Maintenance Fund or Sinking Fund in the amount of such deficiency.

Section 16. Maintenance of Accounts; Investments. The Sinking Fund shall be deposited in and maintained as a separate banking account or accounts from all other accounts of the City. The Operation and Maintenance Fund and the Depreciation Fund may be maintained in a single banking account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other banking accounts of the City and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly IC 5-13, as amended or supplemented and as applicable, pursuant to IC 5-1.2-4 and IC 5-1.2-10, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance. Nothing in this section or elsewhere in this ordinance shall be construed to require that separate bank accounts be established and maintained for the Funds and Accounts continued by this ordinance except that (a) the Sinking Fund and the Construction Account shall be maintained as a separate bank account from the other Funds and Accounts of the waterworks, and (b) the other Funds and Accounts of the waterworks shall be maintained as a separate bank account from the other funds and accounts of the City.

Section 17. Defeasance of the Bonds. If, when the Bonds or a portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or a portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds or a portion thereof then outstanding shall be paid; or (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in (ii) below), or (ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, the principal of and the interest on which when due will provide sufficient moneys for such purpose, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the Bonds or any designated portion thereof issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's waterworks.

Section 18. Rate Covenant. The City shall establish and maintain just and equitable rates for the use of and the service rendered by the waterworks, which shall to the extent permitted by law produce sufficient revenues at all times to pay all the legal and other necessary expense incident to the operation of such utility, to include maintenance costs, operating charges, upkeep, repairs, interest charges on bonds or other obligations, to provide for the proper Operation and Maintenance (as defined in the Financial Assistance Agreement), to comply with and satisfy all covenants contained in this ordinance and the Financial Assistance Agreement, to provide the sinking fund and debt service reserve for the liquidation of bonds or other evidences of indebtedness, to provide adequate funds to be used as working capital, as well as funds for making extensions, additions, and replacements, and also, for the payment of any taxes that may be assessed against such utility, it being the intent and purpose hereof that such charges shall produce an income sufficient to maintain such utility property in a sound physical and financial condition to render adequate and efficient service. So long as any of the Bonds herein authorized are outstanding, none of the facilities or services afforded or rendered by said system shall be furnished without a reasonable and just charge being made therefor. The City shall pay like charges for any and all services rendered by said utility to the City, and all such payments shall be deemed to be revenues of the utility. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of Operation and Maintenance, and said requirements of the Sinking Fund.

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

(a) All required payments into the Sinking Fund and the accounts thereof shall have been made in accordance with the provisions of this ordinance, and the interest on and principal of all bonds payable from the Net Revenues of the waterworks shall have been paid to date in accordance with their terms.

(b) As of the date of issuance of such additional Parity Bonds, the balance in the Reserve Account shall equal not less than the Reserve Requirement for the Outstanding Bonds if any are then outstanding, the Bonds and all then outstanding bonds ranking on a parity therewith, provided, this condition shall be deemed satisfied if any required amount is to be provided from the proceeds of the newly issued Parity Bonds or other funds of the City, and furthermore, the ordinance authorizing the proposed additional Parity Bonds must include a provision requiring the City to build the balance in the Reserve Account to an amount equal to the Reserve Requirement for the proposed additional Parity Bonds, unless the Reserve Account is fully funded as of the time of issuance of the additional Parity Bonds, from available Net Revenues within twelve (12) months from substantially equal monthly deposits after required deposits to the Debt

Service Account. After the 2005 Bonds and the 2006 Bonds are no longer outstanding, the City may fund its Reserve Account for the additional Parity Bonds from available Net Revenues over a five year period with substantially equal monthly deposits of Net Revenues after the required deposits to the Debt Service Account.

(c) The Net Revenues of the waterworks in the fiscal year immediately preceding the issuance of any such additional Parity Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional Parity Bonds proposed to be issued; or, prior to the issuance of said Parity Bonds, the water rates and charges shall be increased or the service area or customer base shall be expanded sufficiently so that said increased rates and charges applied to the previous fiscal year's operations would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional Parity Bonds proposed to be issued. For purposes of this subsection, the records of the waterworks shall be analyzed and all showings shall be prepared by a certified public accountant employed by the City for that purpose. In addition, for purposes of this subsection, with respect to any Parity Bonds hereafter issued while the Bonds remain outstanding and owned by the Authority as part of its DWSRF Program, Net Revenues may not include any revenues from the System Development Charges unless the Authority provides its consent to include all or some portion of the System Development Charges as part of the Net Revenues or otherwise consents to the issuance of such Parity Bonds without satisfying this subsection (c).

(d) The principal of said additional Parity Bonds shall be payable annually on December 1 through and including December 1, 2032 and semiannually thereafter on June 1 and December 1 and the interest on said additional Parity Bonds shall be payable semiannually on June 1 and December 1 in the years in which such principal and interest are payable. If the additional Parity Bonds are issued as capital appreciation bonds, the amount payable at maturity thereof shall be payable on June 1 and/or December 1 during the periods in which such maturity amounts are payable.

(e) If any Bonds are sold to the Authority through its DWSRF Program, (i) the City has obtained the consent of the Authority, (ii) the City has faithfully performed and is in compliance with each of its obligations, agreements, and covenants contained in the Financial Assistance Agreement and this ordinance, and (iii) the City is in compliance with its waterworks permits, except for non-compliance for which the Parity Bonds are to be issued, including refunding bonds issued prior to, but part of, the overall plan to eliminate such non-compliance.

Section 20. Further Covenants of the City. For the purpose of further safeguarding the interests of the owners of the Bonds and BANs, it is hereby specifically provided as follows:

(a) All contracts let by the City in connection with the Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred percent (100%) of the amount of such contracts, to insure the completion of said contracts in accordance with their terms, and such contractors shall also be required to carry such employer's liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The Project shall be completed under the supervision and subject to the approval of the consulting engineers for the Project or such other competent engineer as shall be designated by the Common Council.

(c) So long as any of the Bonds or BANs are outstanding, the City shall at all times maintain the waterworks system in good condition, and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the Bonds or BANs herein authorized are outstanding, the City shall maintain insurance (which must be acceptable to the Authority if the Authority owns any Bonds or Outstanding Bonds) on the insurable parts of the waterworks of a kind and in an amount such as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. In addition to or in lieu of the foregoing, the City may provide coverage on all or part of the waterworks comparable to that described above through a self-insurance program, but only with the consent of the Authority, if any Bonds or Outstanding Bonds are owned by the Authority as part of its DWSRF Program. All insurance proceeds and condemnation awards shall be used in replacing or restoring the property destroyed, damaged or taken; or, if not used for such purposes, shall be treated and applied as Net Revenues of the waterworks, but only with the consent of the Authority if any Bonds or Outstanding Bonds are owned by the Authority as part of its DWSRF Program.

(e) So long as any of the Bonds or BANs are outstanding, the City shall not mortgage, pledge or otherwise encumber such works or any part thereof, nor shall it sell, lease or otherwise encumber such works of any part thereof, nor shall it otherwise dispose of any portion thereof except equipment or property which may become worn out, obsolete, or no longer suitable for use in the waterworks, provided that the City shall obtain the prior written consent of the Authority if any Bonds or Outstanding Bonds are owned by the Authority as part of its DWSRF Program.

(f) If the BANs or Bonds are sold to the Authority through its DWSRF Program and the Bonds or Outstanding Bonds are outstanding and owned by the Authority, the City shall not without the prior written consent of the Authority (i) enter into any lease, contract or agreement or incur any other liabilities in connection with the waterworks other than for normal operating expenditures, or (ii) borrow any money (including without limitation any loan from other utilities operated by the City) in connection with the waterworks.

(g) Except as hereinbefore provided in Section 19 hereof, so long as any of the Bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said waterworks shall be authorized, executed or issued by the City except such as shall be made subordinate and junior in all respects to the Bonds herein authorized, unless all of the Bonds herein authorized are redeemed, retired or defeased pursuant to Section 17 hereof coincidentally with the delivery of such additional bonds or other obligations.

(h) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the Bonds and BANs herein authorized, and after the issuance of the Bonds and BANs, subject to the rights of the City under Section 21 hereof, this ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the owners of the Bonds and BANs, nor shall the Common Council adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as any of the Bonds or BANs or the interest thereon remains unpaid. Except in the case of changes described in Section 21(a)-(f), this ordinance may be amended, however, without the consent of the owners of the Bonds or BANs, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Bonds and BANs; provided, however, that if any Bonds or BANs are sold to the Authority as part of its DWSRF Program, the City shall obtain the prior written consent of the Authority.

(i) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds and BANs herein authorized for the uses and purposes herein set forth, and the owners of the Bonds and BANs shall retain a lien on such respective proceeds until the same are applied in accordance with the provisions of this ordinance and of the Act. The provisions of this ordinance shall also be construed to create a trust in the portion of the Net Revenues herein directed to be set apart and paid into the Waterworks Sinking Fund for the uses and purposes of said fund as in this ordinance set forth. The owners of said Bonds shall have all of the rights, remedies and privileges under Indiana law in the event of default in the payment of the principal of or interest on any of the Bonds herein authorized or in the event of default in respect to any of the provisions of this ordinance or the Act.

(j) For purpose this Section 20, the term "lease" shall include any lease, contract, or other instrument conferring a right upon the City to use property in exchange for a periodic payments made from the revenues of the waterworks, whether the City desires to cause such to be, or by its terms (or its intended effects) is to be, (i) payable as rent, (ii) booked as an expense or an expenditure, or (iii) classified for accounting or other purposes as a capital lease, financing lease, operating lease, non-appropriation leases, installment purchase agreement or lease, or otherwise (including any combination thereof).

Section 21. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this Section and Section 20(h), and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/7%) in aggregate principal amount of the Bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, to consent to and approve the adoption by the Common Council of the City of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that if any Bonds or BANs are sold to the Authority as part of its DWSRF Program, the City shall obtain the prior written consent of the Authority; and provided further, that nothing herein contained shall permit or be construed as permitting:

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

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

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

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

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

(f) A reduction in the Reserve Requirement or the Open Market Reserve Requirement.

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

Section 22. Investment of Funds. (a) The Controller is hereby authorized to invest moneys pursuant to the provisions of this ordinance and IC 5-1-14-3 (subject to applicable requirements of federal law to insure such yield is then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the Bonds and BANs under federal law.

(b) The Controller shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts referenced herein. In order to comply with the provisions of the ordinance, the Controller is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion. The Controller may pay any fees as operation expenses of the waterworks.

Section 23. Tax Covenants. In order to preserve the exclusion of interest on the Bonds and BANs from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the Bonds or BANs, as the case may be ("Code"), and as an inducement to purchasers of the Bonds and BANs, the City represents, covenants and agrees that:

(a) The waterworks will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the City or another state or local governmental unit will use more than 10% of the proceeds of the Bonds or BANs or property financed by the Bond or BAN proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by Bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the BANs or the Bonds, as the case may be. If the City enters into a management contract for the waterworks, the terms of the contract will comply with IRS Revenue Procedure 2017-13, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Bonds or BANs, as the case may be.

(b) No more than 10% of the principal of or interest on the Bonds or BANs is (under the terms of the Bonds, BANs, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be derived from payments (whether or not to the City) in respect of such property or borrowed money used or to be used for a private business use.

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

(d) The City reasonably expects, as of the date hereof, that the Bonds and BANs will not meet either the private business use test described in paragraph

(a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the Bonds or BANs, as the case may be.

(e) No more than 5% of the proceeds of the Bonds or BANs will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

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

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

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

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

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

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

Section 25. Noncompliance with Tax Covenants. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on the Bonds and BANs from gross income under federal law ("Tax Exemption") need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

Section 26. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that this ordinance shall not be deemed in any way to repeal or amend the ordinances authorizing the issuance of the Outstanding Bonds, nor be construed as adversely affecting the rights of the holders of the Outstanding Bonds.

Section 27. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this ordinance.

Section 28. Effective Date. This ordinance shall be in full force and effect from and after its passage and execution by the Mayor.

COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA

By:______________________________
Member of the Common Council

APPROVED AS TO FORM AND LEGALITY

____
Carol Helton, City Attorney

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EXHIBIT A

Description of Project

Three Rivers Filtration Plant (TRFP)

Multiple projects are proposed at the TRFP as part of general improvements and asset management of equipment and facilities. Projects identified include:

- Filter Backwash Retention Tank Improvements – During filter backwash operations plant water can overflow the existing retention tank and discharge to the river. These discharges have high TSS and can exceed discharge NPDES limits. Project would increase capacity of tankage and/or add a new pump station that would pump overflow from filter backwash retention tank to the sanitary sewer on the northside of the plant.
- Sludge Force Main Improvements– Breaks to the lime sludge force main to the Biosolids facility cause the plant to not be able to de-sludge adequately or even cause slowdowns in treatment while the main is down for repairs. Portions of the sludge force main have had new parallel sections added in the last decade, but portion from TRFP to Lakeside area remains to be done. Adding a secondary redundant line or new upsized line will provide greater reliability and increased flow capability.
- Batch Lime Slaking System and Lime Feed Conveyance Improvements – Project would install new batch lime slaking system in Plant 3 to replace the existing continuous feed slakers. Batch slaking system would be sized to expand feeds to Plants 1 & 2. New system would provide for more reliable and efficient lime feed and improved lime handling.
- VFD for High Service Pump – High service pump stations have nine pumps, four of which currently have variable frequency drives (VFD's). Operational control program needs four VFD's always available to ensure reliable pumping during emergency scenarios. Need a fifth VFD added so that one VFD pump can be down for maintenance without impacting operational scheme.
- North Control Room Programmable Logic Controller (PLC) / Network Rehab – Install new PLC to replace existing outdated controls and new fiber lines to serve SCADA and other applications. Project will increase reliability of plant SCADA network.
- Plant 3 Weir Replacement – Replacement of the v-notch overflow weirs in primary and secondary clarification stage of Plant 3. The original fiberglass weirs have been in service for almost 40 years, have exceeded their design life, are difficult and unsafe to maintain and need replacement.
- Substation #2 Electrical Switchgear Replacement – This substation was constructed in the late 1970's and the electrical equipment has reached the end of its useful life. Proposal is to replace the existing switchgear with more modern technology and power monitoring equipment.
- Plant 1 West Upper Slab Concrete Replacement – Replacement of cracked, weathered, and spalled structural concrete in Plant. The repairs are necessary to protect the integrity of concrete structures within Plant 1 and safety of employees while working in the settling tanks below the slab.
- Filter Underdrain Replacement - Replacement of existing wheeler bottom style underdrains with new lateral type underdrain technology in a few filters. The City typically rebuilds two filters per year to keep up with operational issues. New technologies have been developed to improve filter run times, improve backwashing performance, and reduce media growth. New underdrain systems will help with optimizing performance and cleaning of the filter beds.
- Plant Heating, Ventilation, Air Conditioning (HVAC) Improvements – Existing boiler system

is at its useful life and a majority of the existing steam piping is beyond its useful life and is currently repaired multiple times a year. New project, constructed in phases, would replace current boiler system with a new more efficient hot water system, subject to confirmation in preliminary engineering. Final HVAC solutions could vary per needs and effectiveness in the various area of the building campus.

Raw Water Dams & Reservoirs

Multiple projects are proposed at the raw water facilities as part of general improvements and asset management of equipment and facilities. Projects identified include:

- St Joe Dam Pump #2 Improvements – Project includes existing motor rebuild, replacing piping, replacement of the pump control cone valve with a new ball valve, new instrumentation and controls, new power feed and new VFD on Pump #2. Project will allow for more operational flexibility in pumping and automated and remote control of pumps at higher flow rates and better work with pumps #1 and #3, which were similarly upgraded several years ago.
- Raw Water Supply Improvements at TRFP – Installation of new water well(s) at TRFP site that would allow for blending of up to approximately 10mgd of groundwater to the current water supply from the St Joe Dam. Project would allow for better operational control during runoff events that occasionally result in taste and odor issues for customers and reduced chemical use during runoff events. Would also provide a redundant supply for raw water.
- Hurshtown Reservoir Bank Reconstruction – Project to mitigate sloughing on portion of west bank of reservoir.
- St Joe Dam Raw Water Main Inspection and Repairs – Existing raw water mains are a 1933 42-inch steel pipe lined with shotcrete and 1951 42-inch concrete pipe. These mains are redundant, but access is challenging and difficult to inspect. Project would construct better access points and replace valves as necessary to isolate and hire a specialty firm to perform inspection of piping and develop remaining useful life estimates and identify any critical areas that need rehabilitated.
- St Joe Dam Intake Dredging and Bank Stabilization – The St Joe Dam raw water intake integrity is important for continued raw water pumping during lower river levels. Need to dredge small area near entrance of intake and stabilize bank upstream of raw water intake.
- St Joe Dam Concrete and Structural Repairs Phase 2 - Concrete work on Dam to protect integrity of structure. Areas to be addressed that were not completed in Phase I several years ago.

Distribution System Storage

Multiple projects are proposed at the distribution storage facilities as part of general improvements and asset management of equipment and facilities. Projects identified include:

- Painting of West Side Tank – Blast and repaint interior and exterior surfaces of tank as existing paint has met its useful life.
- Painting of Southwest/GM Tank - Blast and repaint interior and exterior surfaces of tank as existing paint has met its useful life.
- Dupont Tank Painting – Blast and repaint interior and exterior surfaces of tank as existing paint has met its useful life.

Distribution System - Capacity Improvements

Multiple projects are proposed to the distribution system to improve capacity, pressure, fire protection, efficiency and reliability of the pipe transmission network in various areas of the system. Projects identified include areas near Clinton Street, Flutter Road, Corbin & Hathaway Road, the West Pump Station, Anthony Blvd, Adams Center Road, and Maplecrest Road. The final phase of the Northwest Feeder Main (Phase V) is also proposed to be constructed.

Advanced Metering Infrastructure (AMI) Improvements

The City plans to implement an AMI (Advanced Metering Infrastructure) system to collect water meter readings via a new fixed communication network. The existing AMR system that was installed in 2003-04 is at the end of its useful life. These improvements will include an upgrade of portions of the existing water meter reading and billing system. There are over 100,000 accounts that will have AMI equipment installed and approximately 70,000 small meter accounts that will have their water meter replaced. Most of the small meters were also installed in 2003-2004 and are at their end of useful life. This project is proposed to be funded by Water and Sewer Utility bonds.

Water Main Rehabilitation/Replacement

The City currently has over 1,400 miles of water main, of which currently over 350 miles are beyond their useful life and often experience main breaks. The City has averaged over 390 main breaks a year since 2010. The City has a water main replacement program, and since the year 2000, the City has been able to fund and replace approximately 95 miles of water main replacement in some of its highest main break areas, but it must continue to invest in water main rehabilitation and replacement in order to provide customers with reliable water service.

The City keeps track of water main breaks, leaks and water quality complaints throughout the system. Utilizing that information and many other factors, water mains are prioritized for rehabilitation and/or replacement using a GIS based asset management tool.

The City's updated goal (beginning in year 2019) is to average approximately 14 miles of water main rehabilitation and replacement each year from 2019-2023. The City has identified over 20 project areas for rehabilitation or replacement it would like to address in 2019-2023, which in total the pipes in those areas have experienced over 1,500 main breaks. The City is also proposing to begin a transmission main assessment and lining program during this period to proactively reduce the risk of failures to its transmission network. Most of the main rehabilitation and replacement work is done by trenchless technologies.

In addition, water main replacement project areas that have lead service connections will include a program to partner with customers to replace the entire lead service from the water main to the home.

Funding for the water main rehabilitation/replacement program will be from both revenue and bond funds.