

BILL NO. S-18-06-07-AS AMENDED

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

1 WHEREAS, the City will advertise for and receive bids for the
2 construction of the Project, which bids will be subject to the City's determination
3 to construct the Project and subject to the City's obtaining funds to pay for the
4 Project; that on the basis of said engineering estimates, the maximum cost of the
5 Project, including incidental expenses, is in the estimated amount of \$85,570,000;
6 and
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8 WHEREAS, the Common Council finds that it does not have sufficient
9 funds on hand available to apply to the costs of the Project, and that the entire cost
10 of the Project is hereby authorized to be financed by the issuance of waterworks
11 revenue bonds, in one or more series, and, if necessary, bond anticipation notes
12 ("BANs"), in one or more series, in an aggregate principal amount not to exceed
13 \$85,570,000; and
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15 WHEREAS, the Common Council finds that there are outstanding bonds
16 payable out of the Net Revenues (as hereinafter defined) of the City's waterworks
17 designated: (a) "Waterworks Revenue Bonds of 2005" ("2005 Bonds"), now
18 outstanding in the amount of \$4,595,000 and maturing annually over a period
19 ending December 1, 2019; (b) "Waterworks Revenue Bonds of 2006" ("2006
20 Bonds"), now outstanding in the amount of \$10,410,000 and maturing annually
21 over a period ending December 1, 2021; (c) "Waterworks Revenue Bonds of
22 2011, Series B ("2011B Bonds"), now outstanding in the amount of \$23,260,000
23 and maturing annually over a period ending December 1, 2031; (d) "Waterworks
24 Revenue Bonds of 2012 ("2012 Bonds"), now outstanding in the amount of
25 \$35,005,000 and maturing annually over a period ending December 1, 2032; and
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1 (e) "Waterworks Revenue Bonds of 2014 ("2014 Bonds"), now outstanding in the
2 amount of \$61,340,000 and maturing annually over a period ending December 1,
3 2032 and semiannually from June 1, 2033 through December 1, 2034, which 2005
4 Bonds, 2006 Bonds, 2011B Bonds, 2012 Bonds and 2014 Bonds each constitute a
5 first charge upon the Net Revenues of the waterworks; and
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7 WHEREAS, the terms and conditions of the ordinances authorizing the
8 issuance of the now outstanding 2005 Bonds, 2006 Bonds, 2011B Bonds, 2012
9 Bonds and 2014 Bonds (hereinafter, collectively, "Outstanding Bonds") provide
10 that additional revenue bonds may be issued on a parity with the Outstanding
11 Bonds provided certain tests are met, and the City finds that the finances of the
12 waterworks are such as will enable meeting the conditions for the issuance of
13 additional parity bonds and that, accordingly, the additional revenue bonds to be
14 issued hereunder shall rank on a parity with the Outstanding Bonds; and
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16 WHEREAS, the City desires to authorize the issuance of bond anticipation
17 notes ("BANs") hereunder, in one or more series, if necessary, payable from the
18 proceeds of waterworks revenue bonds issued hereunder and to authorize the
19 refunding of the BANs, if issued; and
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21 WHEREAS, the City is subject to the jurisdiction of the Indiana Utility
22 Regulatory Commission ("IURC"); the approval of the IURC will be obtained by
23 the City prior to the issuance of the bonds authorized in this ordinance; and
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25 WHEREAS, the City shall enter into a Financial Assistance Agreement
26 with the Indiana Finance Authority ("Authority") as part of its drinking water loan
27 program ("DWSRF Program") established and existing pursuant to IC 5-1.2-1
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1 through IC 5-1.2-4 and IC 5-1.2-10 ("Financial Assistance Agreement") if any
2 bonds or BANs are sold to the Authority through its DWSRF Program; and

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

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

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

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

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

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

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

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

24 Section 2. Issuance of BANs and Bonds. (a) The City shall issue, if
25 necessary, its BANs for the purpose of procuring interim financing to apply to the
26 cost of the Project. The City shall issue its BANs, in one or more series, in an
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1 aggregate amount not to exceed Eighty-five Million Five Hundred Seventy
2 Thousand Dollars (\$85,570,000) to be designated "[Taxable] Waterworks Bond
3 Anticipation Notes of ____" (to be completed with the year in which issued and
4 appropriate series designation, if any). The BANs shall be numbered
5 consecutively from 1 upward, shall be sold at a price not less than 98.5% of their
6 par value or at a price not less than 100% of their par value if sold to the
7 Authority as part of the DWSRF Program, shall be in multiples of One Dollar
8 (\$1) if sold to the Authority as part of its DWSRF Program or in denominations of
9 One Thousand Dollars (\$1,000) or integral multiples thereof if sold to another
10 purchaser, as set forth in the hereinafter defined Purchase Agreement for the
11 BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a
12 rate not to exceed 6% per annum (the exact rate or rates to be determined through
13 negotiation) payable upon maturity. The BANs will mature no later than five (5)
14 years after their date of delivery. The BANs are subject to renewal or extension at
15 an interest rate or rates not to exceed 6% per annum (the exact rate or rates to be
16 negotiated). The term of the BANs and all renewal BANs may not exceed five
17 years from the date of delivery of the initial BANs. The BANs shall be registered
18 in the name of the purchasers thereof.

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22 Notwithstanding anything in this ordinance to the contrary, any series of
23 BANs issued hereunder may bear interest that is taxable and included in the gross
24 income of the owners thereof. If any BANs are issued on a taxable basis, the
25 designated name shall include the term "Taxable" as the first word in the
26 designated name.
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1 The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana
2 Bond Bank, pursuant to IC 5-1.2-1 through IC 5-1.2-4 and IC 5-1.2-10 if sold to
3 the Authority, or pursuant to IC 5-1-14-5 if sold to a financial institution or any
4 other purchaser. The principal of and interest on the BANs shall be payable
5 solely from the issuance of revenue bonds pursuant to and in the manner
6 prescribed by the Act. The revenue bonds will be payable solely out of and
7 constitute a first charge against the Net Revenues (herein defined as gross
8 revenues, inclusive of System Development Charges (as hereinafter defined), of
9 the waterworks of the City after deduction only for the payment of the reasonable
10 expenses of operation, repair and maintenance, but not including depreciation and
11 transfers for payment in lieu of property taxes ("PILOTs")) of the waterworks of
12 the City, on a parity with the Outstanding Bonds. For purposes of this ordinance,
13 "System Development Charges" shall mean the proceeds and balances from any
14 non-recurring charges such as tap fees, subsequent connector fees, capacity or
15 contribution fees, and other similar one-time charges that are available for deposit
16 under this ordinance.
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20 The City shall issue its waterworks revenue bonds, in one or more series,
21 in an aggregate principal amount not to exceed \$85,570,000 to be designated
22 "[Taxable] Waterworks Revenue Bonds of ____" (to be completed with the year
23 in which issued and series designation, if any) ("Bonds") for the purpose of
24 procuring funds to be applied on the cost of the Project, funding the Reserve
25 Account continued herein, the payment of costs of issuance, including a premium
26 for municipal bond insurance and a debt service reserve surety, if any, refunding
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1 the BANs, if issued, and all other costs related to the Project. Each series of
2 Bonds shall be sold at a price of not less than par value if sold to the Authority as
3 part of its DWSRF Program or not less than 99% of their par value if sold to any
4 other purchaser, as applicable, and shall be issued in the denomination of One
5 Dollar (\$1) or any multiple thereof if sold to the Authority through its DWSRF
6 Program or in denominations of Five Thousand Dollars (\$5,000) each or integral
7 multiples thereof if sold to any other purchaser, numbered consecutively from 1
8 upward, dated as of the date of delivery, and shall bear interest at a rate or rates
9 not exceeding seven percent (7%) per annum (the exact rate or rates to be
10 determined by bidding or through negotiation with the Authority as part of its
11 DWSRF Program), payable semiannually on June 1 and December 1 in each year,
12 beginning on the first June 1 or the first December 1 following the date of
13 delivery of the Bonds, as determined by the Controller with the advice of the
14 City's financial advisor. Principal shall be payable in lawful money of the United
15 States of America, at the principal office of the Paying Agent (as hereinafter
16 defined) and the Bonds shall mature annually, or shall be subject to mandatory
17 sinking fund redemption if term bonds are issued, on December 1 of each year,
18 through December 1, 2032, and semiannually thereafter on June 1 and December
19 1 commencing June 1, 2033, over a period ending no later than December 1,
20 2056, and in such amounts that will either: (i) produce as level annual debt service
21 as practicable taking into account the annual debt service on the Outstanding
22 Bonds and all Bonds issued hereunder; (ii) produce as level annual debt service as
23 practicable; or (iii) if the Bonds are sold to the Authority as part of its DWSRF
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1 Program, allow the City to meet the coverage and/or amortization requirements of
2 the DWSRF Program. If the Bonds are sold to the Authority as part of its
3 DWSRF Program, such debt service schedule shall be finalized and set forth in
4 the Financial Assistance Agreement.
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6 All or a portion of the Bonds may be issued as one or more term bonds,
7 upon election of the successful bidder. Such term bonds shall have a stated
8 maturity or maturities on December 1 for Bonds that mature annually and on June
9 1 and December 1 for Bonds that mature semiannually on the dates as determined
10 by the successful bidder, but in no event later than the last serial maturity date of
11 the Bonds as determined in accordance with the above paragraph. The term
12 bonds shall be subject to mandatory sinking fund redemption and final payment(s)
13 at maturity at 100% of the principal amount thereof, plus accrued interest to the
14 redemption date, on principal payment dates which are hereinafter determined in
15 accordance with the above paragraph.
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17 Each series of Bonds issued hereunder shall rank on a parity for all
18 purposes under this ordinance, including the pledge of Net Revenues.
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20 Interest on the Bonds and BANs shall be calculated according to a 360-
21 day calendar year containing twelve 30-day months.

22 Notwithstanding anything in this ordinance to the contrary, any series of
23 Bonds issued hereunder may bear interest that is taxable and included in the gross
24 income of the owners thereof. If any such Bonds are issued on a taxable basis, the
25 designated name shall include the term "Taxable" as the first word in the
26 designated name.
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1 Section 3. Registrar and Paying Agent; Book-entry Provisions. (a)

2 The Controller is hereby authorized to contract with a qualified financial
3 institution to serve as Registrar and Paying Agent for the Bonds ("Registrar" or
4 "Paying Agent"). The Registrar is hereby charged with the responsibility of
5 authenticating the Bonds. The Controller is hereby authorized to enter into such
6 agreements or understandings with the Registrar as will enable the institution to
7 perform the services required of a registrar and paying agent. The Controller is
8 further authorized to pay such fees as the Registrar may charge for the services it
9 provides as Registrar and Paying Agent and such fees may be paid from the
10 Waterworks Sinking Fund established to pay the principal of and interest on the
11 Bonds as fiscal agency charges.
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14 As to the BANs and as to the Bonds, if the purchaser does not object to
15 such designation, the Controller may serve as Registrar and Paying Agent and, in
16 that case, is hereby charged with the performance of and all duties of and
17 responsibilities of Registrar and Paying Agent.
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19 (b) If the Bonds or BANs are sold to the Authority through its
20 DWSRF Program, the principal of and interest thereon shall be paid by wire
21 transfer to such financial institution if and as directed by the Authority on the due
22 date of such payment or, if such due date is a day when financial institutions are
23 not open for business, on the business day immediately after such due date. So
24 long as the Authority, as part of its DWSRF Program, is the owner of the Bonds
25 or BANs, such Bonds and BANs shall be presented for payment as directed by the
26 Authority.
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1 If such Bonds are not sold to the Authority as part of its DWSRF Program
2 or if wire transfer payment is not required, the principal of the Bonds and the
3 principal and interest on the BANs shall be payable at the principal corporate trust
4 office of the Paying Agent. All payments of interest on the Bonds shall be paid
5 by check mailed to the registered owners thereof, as of the fifteenth day of the
6 month preceding each interest payment date ("Record Date"), at the addresses as
7 they appear on the registration books kept by the Registrar or at such other
8 address as is provided to the Paying Agent in writing by such registered owner on
9 or before such Record Date. If payment of principal or interest is made to a
10 depository, payment shall be made by wire transfer on the payment date in same-
11 day funds. If the payment date occurs on a date when financial institutions are not
12 open for business, the wire transfer shall be made on the next succeeding business
13 day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m.
14 (New York City time) so such payments are received at the depository by 2:30
15 p.m. (New York City time). Notwithstanding anything to the contrary herein, the
16 Bonds shall not be required to be presented or surrendered to receive payment in
17 connection with any mandatory sinking fund redemption until the final maturity
18 date of the Bonds or earlier payment in full of the Bonds.

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

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

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17 (d) The Registrar and Paying Agent may at any time resign as
18 Registrar and Paying Agent upon giving 30 days' notice in writing to the City and
19 by first class mail to each registered owner of the Bonds then outstanding, and
20 such resignation will take effect at the end of such 30 day period or upon the
21 earlier appointment of a successor registrar and paying agent by the City. Any
22 such notice to the City may be served personally or sent by registered mail. The
23 Registrar and Paying Agent may be removed at any time as Registrar and Paying
24 Agent by the City, in which event the City may appoint a successor registrar and
25 paying agent. The City shall notify each registered owner of the Bonds then
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1 outstanding by first class mail of the removal of the Registrar and Paying Agent.
2 Notices to the registered owners of the Bonds shall be deemed to be given when
3 mailed by first class mail to the addresses of such registered owners as they
4 appear on the registration books kept by the Registrar.
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6 Upon the appointment of any successor registrar and paying agent by the
7 City, the Controller is authorized and directed to enter into such agreements and
8 understandings with such successor registrar and paying agent as will enable the
9 institution to perform the services required of a registrar and paying agent for the
10 Bonds. The Controller is further authorized to pay such fees as the successor
11 registrar and paying agent may charge for the services it provides as registrar and
12 paying agent and such fees may be paid from the Waterworks Sinking Fund
13 continued in Section 14 hereof. Any predecessor registrar and paying agent shall
14 deliver all of the Bonds and any cash or investments in its possession with respect
15 thereto, together with the registration books, to the successor registrar and paying
16 agent.
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19 (e) Interest on the Bonds sold to the Authority as part of its DWSRF
20 Program shall be payable from the date or dates of payment made by the
21 Authority as part of its purchase of the Bonds pursuant to the Financial Assistance
22 Agreement. Interest on all other Bonds shall be payable from the interest
23 payment date to which interest has been paid next preceding the authentication
24 date of the Bonds unless the Bonds are authenticated after the Record Date and on
25 or before such interest payment date in which case they shall bear interest from
26 such interest payment date, or unless the Bonds are authenticated on or before the
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1 Record Date preceding the first interest payment date, in which case they shall
2 bear interest from the original date until the principal shall be fully paid.

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

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

3 No person other than the Depository Trust Company shall receive an
4 authenticated Bond evidencing an obligation of the City to make payments of the
5 principal of and premium, if any, and interest on the Bonds pursuant to this
6 ordinance. The City and the Registrar and Paying Agent may treat as and deem
7 the Depository Trust Company or CEDE & CO. to be the absolute bondholder of
8 each of the Bonds for the purpose of (i) payment of the principal of and premium,
9 if any, and interest on such Bonds; (ii) giving notices of redemption and other
10 notices permitted to be given to bondholders with respect to such Bonds; (iii)
11 registering transfers with respect to such Bonds; (iv) obtaining any consent or
12 other action required or permitted to be taken of or by bondholders; (v) voting;
13 and (vi) for all other purposes whatsoever. The Paying Agent shall pay all
14 principal of and premium, if any, and interest on the Bonds only to or upon the
15 order of the Depository Trust Company, and all such payments shall be valid and
16 effective fully to satisfy and discharge the City's and the Paying Agent's
17 obligations with respect to principal of and premium, if any, and interest on the
18 Bonds to the extent of the sum or sums so paid. Upon delivery by the Depository
19 Trust Company to the City of written notice to the effect that the Depository Trust
20 Company has determined to substitute a new nominee in place of CEDE & CO.,
21 and subject to the provisions herein with respect to consents, the words "CEDE &
22 CO." in this ordinance shall refer to such new nominee of the Depository Trust
23 Company. Notwithstanding any other provision hereof to the contrary, so long as
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1 any Bond is registered in the name of CEDE & CO., as nominee of the
2 Depository Trust Company, all payments with respect to the principal of and
3 premium, if any, and interest on such Bonds and all notices with respect to such
4 Bonds shall be made and given, respectively, to the Depository Trust Company as
5 provided in a representation letter from the City to the Depository Trust
6 Company.
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8 Upon receipt by the City of written notice from the Depository Trust
9 Company to the effect that the Depository Trust Company is unable or unwilling
10 to discharge its responsibilities and no substitute depository willing to undertake
11 the functions of the Depository Trust Company hereunder can be found which is
12 willing and able to undertake such functions upon reasonable and customary
13 terms, then the Bonds shall no longer be restricted to being registered in the
14 register of the City kept by the Registrar in the name of CEDE & CO., as nominee
15 of the Depository Trust Company, but may be registered in whatever name or
16 names the bondholders transferring or exchanging the Bonds shall designate, in
17 accordance with the provisions of this ordinance.
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20 If the City determines that it is in the best interest of the bondholders that
21 they be able to obtain certificates for the fully registered Bonds, the City may
22 notify the Depository Trust Company and the Registrar, whereupon the
23 Depository Trust Company will notify the Beneficial Owners of the availability
24 through the Depository Trust Company of certificates for the Bonds. In such
25 event, the Registrar shall prepare, authenticate, transfer and exchange certificates
26 for the Bonds as requested by the Depository Trust Company and any Beneficial
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1 Owners in appropriate amounts, and whenever the Depository Trust Company
2 requests the City and the Registrar to do so, the Registrar and the City will
3 cooperate with the Depository Trust Company by taking appropriate action after
4 reasonable notice (i) to make available one or more separate certificates
5 evidencing the fully registered Bonds of any Beneficial Owner's Depository Trust
6 Company account or (ii) to arrange for another securities depository to maintain
7 custody of certificates for and evidencing the Bonds.
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9 If the Bonds shall no longer be restricted to being registered in the name of
10 the Depository Trust Company, the Registrar shall cause the Bonds to be printed
11 in blank in such number as the Registrar shall determine to be necessary or
12 customary; provided, however, that the Registrar shall not be required to have
13 such Bonds printed until it shall have received from the City indemnification for
14 all costs and expenses associated with such printing.
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16 In connection with any notice or other communication to be provided to
17 bondholders by the City or the Registrar with respect to any consent or other
18 action to be taken by bondholders, the City or the Registrar, as the case may be,
19 shall establish a record date for such consent or other action and give the
20 Depository Trust Company notice of such record date not less than fifteen (15)
21 calendar days in advance of such record date to the extent possible.
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23 So long as the Bonds are registered in the name of the Depository Trust
24 Company or CEDE & CO. or any substitute nominee, the City and the Registrar
25 and Paying Agent shall be entitled to request and to rely upon a certificate or
26 other written representation from the Beneficial Owners of the Bonds or from the
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1 Depository Trust Company on behalf of such Beneficial Owners stating the
2 amount of their respective beneficial ownership interests in the Bonds and setting
3 forth the consent, advice, direction, demand or vote of the Beneficial Owners as
4 of a record date selected by the Registrar and the Depository Trust Company, to
5 the same extent as if such consent, advice, direction, demand or vote were made
6 by the bondholders for purposes of this ordinance and the City and the Registrar
7 and Paying Agent shall for such purposes treat the Beneficial Owners as the
8 bondholders. Along with any such certificate or representation, the Registrar may
9 request the Depository Trust Company to deliver, or cause to be delivered, to the
10 Registrar a list of all Beneficial Owners of the Bonds, together with the dollar
11 amount of each Beneficial Owner's interest in the Bonds and the current
12 addresses of such Beneficial Owners.
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14 Section 4. Redemption of Bonds and BANs. (a) Commencing 180
15 days after their date of issuance, the BANs are prepayable by the City, in whole or
16 in part, on any date, upon 20 days' notice to the owner of the BANs, without
17 premium.
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19 (b) For any Bonds sold to the Authority as part of its DWSRF
20 Program, such Bonds are redeemable at the option of the City, but no sooner than
21 ten (10) years after their date of delivery, or any date thereafter, on sixty (60)
22 days' notice, in whole or in part, in inverse order of maturity, and by lot within a
23 maturity, at face value together with a premium no greater than 2%, plus accrued
24 interest to the date fixed for redemption; provided, however, if the Bonds are sold
25 to the DWSRF Program and registered in the name of the Authority, the Bonds
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1 shall not be redeemable at the option of the City unless and until consented to by
2 the Authority. The exact redemption dates and premiums shall be established by
3 the Controller, with the advice of the City's financial advisor, prior to the sale of
4 the Bonds.
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6 (c) For any series of Bonds not sold to the Authority as part of its
7 DWSRF Program, such Bonds are redeemable at the option of the City, but no
8 earlier than eight (8) years after their date of delivery and on any date thereafter,
9 in whole or in part, in the order of maturity as determined by the City, and by lot
10 within a maturity, on thirty (30) days' notice, at face value, with a premium no
11 greater than 1%, plus accrued interest to the date fixed for redemption. The exact
12 redemption dates and premiums shall be established by the Controller, with the
13 advice of the City's financial advisor, prior to the sale of the Bonds.
14

15 (d) If any Bond is issued as a term bond, the Paying Agent shall credit
16 against the mandatory sinking fund requirement for the Bonds maturing as term
17 bonds, and corresponding mandatory redemption obligation, in the order
18 determined by the City, any Bonds maturing as term bonds which have previously
19 been redeemed (otherwise than as a result of a previous mandatory redemption
20 requirement) or delivered to the Registrar for cancellation or purchased for
21 cancellation by the Paying Agent and not theretofore applied as a credit against
22 any redemption obligation. Each Bond maturing as a term bond so delivered or
23 cancelled shall be credited by the Paying Agent at 100% of the principal amount
24 thereof against the mandatory sinking fund obligation on such mandatory sinking
25 fund date, and any excess of such amount shall be credited on future redemption
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1 obligations, and the principal amount of the Bonds to be redeemed by operation of
2 the mandatory sinking fund requirement shall be accordingly reduced; provided,
3 however, the Paying Agent shall credit only such Bonds maturing as term bonds
4 to the extent received on or before forty-five (45) days preceding the applicable
5 mandatory redemption date.
6

7 Each authorized denomination shall be considered a separate bond for
8 purposes of optional and mandatory redemption. If less than an entire maturity is
9 called for redemption at one time, the Bonds to be redeemed shall be selected by
10 lot within a maturity by the Registrar. If some Bonds are to be redeemed by
11 optional redemption and mandatory sinking fund redemption on the same date,
12 the Registrar shall select by lot the Bonds for optional redemption before selecting
13 the Bonds by lot for the mandatory sinking fund redemption.
14

15 (e) Notice of redemption shall be given not less than sixty (60) days
16 for Bonds sold to the Authority as part of its DWSRF Program and not less than
17 thirty (30) days for Bonds sold to any other purchaser prior to the date fixed for
18 redemption unless such redemption notice is waived by the owner of the Bond or
19 Bonds redeemed. Such notice shall be mailed to the address of the registered
20 owner as shown on the registration record of the City as of the date which is sixty-
21 five (65) days for Bonds sold to the Authority as part of its DWSRF Program and
22 forty-five (45) days for Bonds sold to any other purchaser prior to such
23 redemption date. The notice shall specify the date and place of redemption and
24 sufficient identification of the Bonds called for redemption. The place of
25 redemption may be determined by the City. Interest on the Bonds so called for
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1 redemption shall cease on the redemption date fixed in such notice if sufficient
2 funds are available at the place of redemption to pay the redemption price on the
3 date so named.

4
5 Section 5. Execution and Negotiability. Each series of Bonds and
6 BANs shall be executed in the name of the City by the manual or facsimile
7 signature of the Mayor, countersigned by the manual or facsimile signature of the
8 Controller, and attested by the manual or facsimile signature of its Clerk, and the
9 seal of the City shall be affixed, imprinted or impressed to or on each of the
10 Bonds and BANs manually, by facsimile or any other means; and these officials,
11 by the execution of a Signature and No Litigation Certificate, shall adopt as and
12 for their own proper signatures the facsimile signatures appearing on the Bonds or
13 BANs. In case any officer whose signature or facsimile signature appears on the
14 Bonds or BANs shall cease to be such officer before the delivery of the Bonds or
15 BANs, the signature of such officer shall nevertheless be valid and sufficient for
16 all purposes the same as if such officer had remained in office until such delivery.
17

18
19 The Bonds and BANs shall have all of the qualities and incidents of
20 negotiable instruments under the laws of the State of Indiana, subject to the
21 provisions for registration herein.

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

25
26 Section 6. Form of Bonds. The form and tenor of the Bonds shall be
27 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.

1 [The principal of this bond is payable at the [principal corporate trust]
2 office of _____ ("Registrar") or "Paying Agent"), in
3 the _____ of _____, _____. All payments of
4 [principal of and] interest on this bond shall be paid by [check mailed one business
5 day prior to the interest payment date] OR [paid by wire transfer for deposit to a
6 financial institution as directed by the Indiana Finance Authority ("Authority") on
7 the due date or, if such due date is a day when financial institutions are not open
8 for business, on the business day immediately after such due date] to the registered
9 owner hereof as of the fifteenth day of the month preceding such interest payment
10 date at the address as it appears on the registration books kept by [_____
11 ("Registrar" or "Paying Agent") in the _____ of _____, Indiana] OR
12 [the Registrar] or at such other address as is provided to the Paying Agent in
13 writing by the registered owner. [Notwithstanding anything to the contrary herein,
14 this bond shall not be required to be presented or surrendered to receive payment in
15 connection with any mandatory sinking fund redemption until the final maturity date
16 of this bond or earlier payment in full of this bond.] [If payment of principal or
17 interest is made to a depository, payment shall be made by wire transfer on the
18 payment date in same-day funds. If the payment date occurs on a date when
19 financial institutions are not open for business, the wire transfer shall be made on
20 the next succeeding business day. The Paying Agent shall wire transfer payments
21 by 1:00 p.m. (New York City time) so such payments are received at the
22 depository by 2:30 p.m. (New York City time).] All payments on the bond shall
23 be made in any coin or currency of the United States of America, which on the
24 dates of such payment, shall be legal tender for the payment of public and private
25 debts.

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

20 This bond is [the only] one of an authorized issue of bonds of the City [[to be]
21 [issued in series]], of like date, tenor and effect, except as to numbering, interest
22 rate[, series designation,] and date of maturity]; in the total amount of
23 _____ Dollars (\$ _____); numbered
24 consecutively from 1 up; issued for the purpose of providing funds to pay the cost
25 of certain additions, extensions and improvements to the municipally owned
26 waterworks system of the City[, to refund interim notes issued in anticipation of
27 the bonds] and to pay issuance expenses[, including a municipal bond insurance
28 premium][a debt service reserve surety premium]. This bond is issued pursuant to
29 an ordinance adopted by the Common Council of the City on the ____ day of
30 _____, 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

1 owners of said bonds, other matters connected therewith, including the issuance
2 of notes in anticipation of bonds, and repealing ordinances inconsistent herewith"
3 ("Ordinance"), and in accordance with the provisions of Indiana law, including
4 without limitation Indiana Code 8-1.5 as in effect on the date of delivery of the
bonds of this issue ("Act").

5 [Reference is hereby made to the Financial Assistance Agreement
6 ("Financial Assistance Agreement") between the City and the Authority
7 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 5-1.2-1 through IC 5-1.2-4 and IC 5-1.2-10.]

8 Pursuant to the provisions of the Act and the Ordinance, the
9 principal of and interest on this bond and all other bonds of said issue, [including
10 the Waterworks Revenue Bonds of _____, Series ____ ("Series ____ Bonds")]
and any bonds hereafter issued on a parity therewith are payable solely from the
11 Waterworks Sinking Fund continued by the Ordinance ("Sinking Fund") to be
12 provided from the Net Revenues (defined as the gross revenues, inclusive of
13 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
14 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
15 _____ Bonds], in accordance with the terms thereof.

16 The City irrevocably pledges the entire Net Revenues of the
waterworks to the prompt payment of the principal of and interest on the bonds
17 authorized by the Ordinance, of which this is one, and any bonds ranking on a
18 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,
19 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
20 expenses of Operation and Maintenance (as defined in the [Ordinance] [Financial
Assistance Agreement]) of the waterworks and for the payment of the sums
21 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,
22 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
23 the rights and remedies provided for under Indiana law.

24 The City further covenants that it will set aside and pay into its Sinking Fund
25 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
26 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
27 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
28

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:

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

*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

1 shall specify the date and place of redemption and sufficient identification of the
2 bonds called for redemption. The place of redemption may be determined by the
3 City. Interest on the bonds so called for redemption shall cease on the redemption
4 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.

5 If this bond shall not be presented for payment or redemption on the date
6 fixed therefor, the City may deposit in trust with its depository bank an amount
7 sufficient to pay such bond or the redemption price, as the case may be, and
8 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.

9 This bond is transferable or exchangeable only upon the books of the City
10 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
11 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
12 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,
13 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
14 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,
15 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
16 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.

17
18 This bond is subject to defeasance prior to redemption or payment as
provided in the Ordinance referred to herein. THE OWNER OF THIS BOND,
19 BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS
AND PROVISIONS CONTAINED IN THE ORDINANCE. The Ordinance may
20 be amended without the consent of the owners of the bonds as provided in the
Ordinance.

21
22 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.

23
24 [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
25 all respects to the provisions of the Letter of Representations between the City
and DTC, or any substitute agreement, effecting such Book Entry System.]

26 It is hereby certified and recited that all acts, conditions and things
27 required to be done precedent to and in the execution, issuance and delivery of

1 this bond have been done and performed in regular and due form as provided by
2 law.

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

5 IN WITNESS WHEREOF, the City of Fort Wayne, in Allen County,
6 Indiana, has caused this bond to be executed in its corporate name by the manual
7 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.

8 CITY OF FORT WAYNE, INDIANA

9
10 By: _____
11 Mayor

12 COUNTERSIGNED:

13
14 By: _____
Controller

15 [SEAL]

16 Attest:

17
18 Clerk

19 REGISTRAR'S CERTIFICATE OF AUTHENTICATION

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

21
22 _____,
as Registrar

23
24 By: _____,
Authorized Representative

25 [STATEMENT OF INSURANCE]

26 ASSIGNMENT

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

5 Dated: _____

6
7 NOTICE: Signature(s) must be guaranteed by
8 an eligible guarantor institution participating in
9 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.

10
11 [EXHIBIT A]

12 (End of Bond Form)

13 Section 7. Authorization for Preparation and Sale of the Bonds and
14 BANs; Official Statement; Continuing Disclosure; Municipal Bond Insurance. (a)

15 The Controller is hereby authorized and directed to have the Bonds and BANs
16 prepared, and the Mayor, the Controller and the Clerk are hereby authorized and
17 directed to execute and attest the Bonds and BANs in the form and manner
18 provided herein.

19
20 (b) The Controller is hereby authorized and directed to deliver the
21 Bonds and BANs to the respective purchasers thereof. At the time of delivery of
22 the Bonds and BANs, the Controller shall collect the full amount which the
23 respective purchasers have agreed to pay therefor, which amount shall not be less
24 than the par value of the BANs if sold to the Authority as part of its DWSRF
25 Program, not less than 98.5% of the par value of the BANs if sold to any other
26 purchaser, not less than the par value of the Bonds if sold to the Authority as part

1 of its DWSRF Program, and not less than 99% of the par value of the Bonds if
2 sold to any other purchaser, as the case may be, plus accrued interest to the date of
3 delivery, if any. The City may receive payment on the BANs and the Bonds in
4 installments. The Bonds, as and to the extent paid for and delivered to the
5 purchaser, shall be the binding special revenue obligations of the City payable out
6 of the Net Revenues of the waterworks, on a parity with Outstanding Bonds, to be
7 set aside into the Sinking Fund as herein provided. The proceeds derived from
8 the sale of the Bonds shall be and are hereby set aside for application on the cost
9 of the Project hereinbefore referred to, the refunding of the BANs, if issued, and
10 the expenses necessarily incurred in connection with the BANs and Bonds. The
11 proper officers of the City are hereby directed to sell the Bonds, to draw all proper
12 and necessary warrants, and to do whatever acts and things which may be
13 necessary to carry out the provisions of this ordinance.

14
15
16 (c) Distribution of an Official Statement (preliminary and final)
17 prepared by H.J. Umbaugh & Associates, Certified Public Accountants, LLP on
18 behalf of the City, is hereby authorized and approved and the Mayor and
19 Controller are authorized and directed to execute the Official Statement on behalf
20 of the City in a form consistent with this ordinance. The Mayor or the Controller
21 is authorized to designate the preliminary Official Statement as "nearly final" for
22 purposes of Rule 15c2-12 as promulgated by the Securities and Exchange
23 Commission ("Rule").
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1 If an Official Statement is not required upon delivery of the Bonds, the
2 City shall obtain an investment letter from the purchaser of the Bonds which
3 satisfies federal and state securities laws applicable to the Bonds.
4

5 (d) If required under the Rule, the Mayor and Controller are hereby
6 authorized and directed to complete, execute and attest a Continuing Disclosure
7 Undertaking ("Disclosure Undertaking") for the Bonds on behalf of the City, in a
8 form consistent with this ordinance. Notwithstanding any other provisions of
9 this ordinance, failure of the City to comply with the Disclosure Undertaking
10 shall not be considered an event of default under the Bonds or this ordinance.
11

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

3 Section 8. Sale of the Bonds; Award of Bonds. If the Bonds will be
4 sold at a competitive sale, the Controller shall cause to be published either (i) a
5 notice of such sale in the newspaper or newspapers which meet the requirements
6 of IC 5-3-1, two times, at least one week apart, the first publication made at least
7 fifteen (15) days before the date of the sale and the second publication being made
8 at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in
9 the newspaper or newspapers which meet the requirements of IC 5-3-1 and the
10 *Court & Commercial Record*, all in accordance with IC 5-1-11 and IC 5-3-1. A
11 notice or summary notice of sale may also be published one time in the *Court &*
12 *Commercial Record*, and a notice or summary notice may also be published in
13 *The Bond Buyer* in New York, New York. The notice shall state the character and
14 amount of the Bonds, the maximum rate of interest thereon, the terms and
15 conditions upon which bids will be received and the sale made, and such other
16 information as the Controller and the attorneys employed by the City shall deem
17 advisable and any summary notice may contain any information deemed so
18 advisable. The notice will also state that the winning bidder will agree to assist
19 the City in establishing the issue price of the Bonds under Treas. Reg. Section
20 1.148-1(f) ("Issue Price Regulation"). The criteria for establishing the issue price
21 under the Issue Price Regulation shall be set forth in the preliminary Official
22 Statement and/or the bid form. The notice may provide, among other things, that
23 electronic bidding will be permitted and that the winning bidder shall be required
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1 to submit a certified or cashier's check in an amount equal to 1% of the principal
2 amount of the Bonds described in the notice within twenty-four hours of the sale
3 and that in the event the successful bidder shall fail or refuse to accept delivery of
4 the Bonds and pay for the same as soon as the Bonds are ready for delivery, or at
5 the time fixed in the notice of sale, then said check and the proceeds thereof shall
6 be the property of the City and shall be considered as its liquidated damages on
7 account of such default; that bidders for the Bonds will be required to name the
8 rate or rates of interest which the Bonds are to bear, not exceeding the maximum
9 rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of
10 one-eighth (1/8) or one-hundredth (1/100) of one percent (1%). The notice may
11 state that the rate bid on a maturity shall be equal to or greater than the rate bid on
12 the immediately preceding maturity. No conditional bid or bid for less than 99%
13 of the face amount of the Bonds will be considered. The opinion of Ice Miller
14 LLP, bond counsel of Indianapolis, Indiana, approving the legality of the Bonds,
15 will be furnished to the purchaser at the expense of the City.

16
17
18 The Bonds shall be awarded by the Controller to the best bidder who has
19 submitted his bid in accordance with the terms of this ordinance, IC 5-1-11 and
20 the notice. The best bidder will be the one who offers the lowest net interest cost
21 to the City, to be determined by computing the total interest on all of the Bonds to
22 their maturities, adding thereto the discount bid, if any, and deducting the
23 premium bid, if any. The right to reject any and all bids shall be reserved. If an
24 acceptable bid is not received on the date of sale, the sale may be continued from
25 day to day thereafter without further advertisement for a period of thirty (30)
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1 days, during which time no bid which provides a higher net interest cost to the
2 City than the best bid received at the time of the advertised sale will be
3 considered.
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5 As an alternative to public sale, the Controller may negotiate the sale of
6 the Bonds to the Authority as part of its DWSRF Program. The Mayor and the
7 Controller are hereby authorized to: (i) submit an application to the Authority as
8 part of its DWSRF Program; (ii) execute a Financial Assistance Agreement with
9 the Authority with terms conforming to this ordinance; and (iii) sell such Bonds
10 upon such terms as are acceptable to the Mayor and the Controller consistent with
11 the terms of this ordinance. The substantially final form of Financial Assistance
12 Agreement attached hereto and incorporated herein by reference is hereby
13 approved by the Common Council and the Mayor and Controller are hereby
14 authorized to execute and deliver the same, and to approve any changes in form or
15 substance to the Financial Assistance Agreement, which are consistent with the
16 terms of this ordinance, such changes to be conclusively evidenced by its
17 execution.
18

19 Notwithstanding anything contained herein, the City may accept any other
20 forms of financial assistance, as and if available, from the DWSRF Program
21 (including without limitation any forgivable loans, grants or other assistance
22 whether available as an alternative to any Bond or BAN related provision
23 otherwise provided for herein or as a supplement or addition thereto). If required
24 by the DWSRF Program to be eligible for such financial assistance, one or more
25 of the series of the Bonds issued hereunder may be issued on a basis such that the
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1 payment of the principal of or interest on (or both) such series of Bonds is junior
2 and subordinate to the payment of the principal of and interest on other series of
3 Bonds issued hereunder (and/or any other revenue bonds secured by a pledge of
4 Net Revenues, whether now outstanding or hereafter issued), all as provided by
5 the terms of such series of Bonds as modified pursuant to this authorization. Such
6 financial assistance, if any, shall be provided in the Financial Assistance
7 Agreement and the Bonds of each series of Bonds issued hereunder (including
8 any modification made pursuant to the authorization in this paragraph to the form
9 of Bonds otherwise contained herein).
10

11 Section 9. Financial Records and Accounts. (a) The City shall keep
12 proper records and books of account, separate from all of its other records and
13 accounts, in which complete and correct entries shall be made showing all
14 revenues received on account of the operation of the waterworks and all
15 disbursements made therefrom and all transactions relating to the waterworks.
16 Copies of all such statements and reports shall be kept on file in the office of the
17 Controller.
18

19 (b) If any Bonds or BANs are sold to the Authority as part of its
20 DWSRF Program, the City shall establish and maintain the books and other
21 financial records of the Project (including the establishment of a separate account
22 or subaccount for the Project) and the waterworks in accordance with (i) generally
23 accepted governmental accounting standards for utilities, on an accrual basis, as
24 promulgated by the Government Accounting Standards Board and (ii) the rules,
25 regulations and guidance of the State Board of Accounts.
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1 Section 10. Premium. The premium received at the time of delivery of
2 the Bonds, if any, shall be deposited in the Waterworks Sinking Fund continued
3 in Section 14.
4

5 Section 11. Use of Proceeds and Costs of Issuance. The proceeds from
6 the sale of the Bonds, to the extent not used to refund BANs, and BAN proceeds
7 shall be deposited in a bank or banks which are legally designated depositories for
8 the funds of the City, in a special account or accounts to be designated as "City of
9 Fort Wayne, Waterworks Construction Account" ("Construction Account"). All
10 funds deposited to the credit of the Waterworks Sinking Fund or the Construction
11 Account shall be deposited, held, secured or invested in accordance with the laws
12 of the State of Indiana relating to the depositing, holding, securing or investing of
13 public funds, including particularly IC 5-13, as amended and supplemented, and
14 as applicable, pursuant to IC 5-1.2-1 through IC 5-1.2-4 11 and IC 5-1.2-10. The
15 funds in the Construction Account shall be expended only for the purpose of
16 paying the cost of the cost of the Project, refunding the BANs, if issued, or as
17 otherwise required by the Act or for the expenses of issuance of the Bonds. The
18 cost of obtaining the services of Ice Miller LLP, the City Attorney and H.J.
19 Umbaugh & Associates, Certified Public Accountants, LLP shall be considered as
20 a part of the cost of the Project on account of which the Bonds and BANs are
21 issued.
22

23
24 Any balance or balances remaining unexpended in such special account or
25 accounts after completion of the Project, which are not required to meet unpaid
26 obligations incurred in connection with such Project, shall either (1) be paid into
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1 the Waterworks Sinking Fund and used solely for the purposes of the Waterworks
2 Sinking Fund or (2) be used for the same purpose or type of project for which the
3 Bonds were originally issued, all in accordance with IC 5-1-13, as amended and
4 supplemented.
5

6 If any Bonds are sold to the Authority as part of its DWSRF Program, to
7 the extent (a) that the total principal amount of the Bonds is not paid by the
8 purchaser or drawn down by the City or (b) proceeds remain in the Construction
9 Account and are not applied to the Project (or any modifications or additions
10 thereto approved by the Department and the Authority), the City shall reduce the
11 principal amount of the Bond maturities to effect such reduction in a manner that
12 will still achieve the annual debt service as described in Section 2 subject to and
13 upon the terms forth in the Financial Assistance Agreement.
14

15 Each of the funds and accounts of the waterworks shall be deposited, held,
16 secured or invested in accordance with the laws of the State of Indiana relating to
17 the depositing, holding, securing or investing of public funds, including,
18 particularly, applicable provisions of Indiana Code 5-13-9, as amended and as
19 applicable, pursuant to IC 5-1.2-1 through IC 5-1.2-4 and IC 5-1.2-10. Any
20 interest or income derived from any such investments shall become a part of the
21 moneys in the fund or account so invested.
22

23 Section 12. Pledge of Net Revenues. The interest on and the principal
24 of the Bonds issued pursuant to the provisions of this ordinance, and any bonds
25 hereafter issued on a parity therewith, shall constitute a first charge on all the Net
26 Revenues, on a parity with the Outstanding Bonds, and such Net Revenues are
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1 hereby irrevocably pledged to the payment of the interest on and principal of such
2 Bonds, to the extent necessary for that purpose. The City shall not be obligated to
3 pay the Bonds or the interest thereon except for the Net Revenues, and the Bonds
4 shall not constitute an indebtedness of the City within the meaning of the
5 provisions and limitations of the constitution of the State of Indiana.
6

7 Section 13. Operation and Maintenance Fund. There shall be set apart
8 and paid out of the gross revenues of the waterworks into a cash operating fund
9 previously established and continued and designated as the Waterworks Operation
10 and Maintenance Fund (the "Operation and Maintenance Fund") an amount
11 necessary and sufficient to maintain a balance therein sufficient to pay the
12 monthly costs of operating, repairing and maintaining said waterworks for at least
13 the next two (2) ensuing calendar months. The moneys credited to the Operation
14 and Maintenance Fund shall be used for the payment of the reasonable and proper
15 operation, repair and maintenance expenses of the waterworks on a day-to-day
16 basis, but none of the moneys in said fund shall be used for remediating
17 depreciation, replacements, improvements, extensions or additions with respect to
18 the waterworks. Any balance in the Operation and Maintenance Fund may be
19 transferred to the Waterworks Sinking Fund if necessary to prevent a default in
20 the payment of principal of or interest on outstanding bonds of the waterworks.
21

22 Section 14. Waterworks Sinking Fund. The Waterworks Sinking Fund
23 ("Sinking Fund") previously established and continued hereby and designated and
24 constituted as the special fund for the payment of the interest on and principal of
25 revenue bonds which by their terms are payable from the Net Revenues of the
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1 waterworks (including any System Development Charges that are considered Net
2 Revenues). The Sinking Fund shall continue be divided into two accounts hereby
3 designated as the Waterworks Debt Service Account ("Debt Service Account")
4 and the Waterworks Reserve Account ("Reserve Account"). Such payments shall
5 continue until the balances in the Debt Service Account and the Reserve Account
6 equal the principal of and interest on all of the then outstanding bonds of the
7 waterworks to the final maturity and provide for payment of all fiscal agency
8 charges.
9

10 There is hereby continued, within the Sinking Fund, the Debt Service
11 Account. There shall be transferred on the last day of each month to the Debt
12 Service Account an amount of the Net Revenues equal to (i) at least one-sixth
13 ($1/6$) of the interest on all then outstanding bonds payable on the then next
14 succeeding interest payment date, and (ii) at least one-twelfth ($1/12$) of the
15 principal on all then outstanding bonds maturing through and including December
16 1, 2032, and thereafter at least one-sixth ($1/6$) of the principal on all then
17 outstanding bonds payable on the then next succeeding principal payment date,
18 until the amount of interest and principal payable on the then next succeeding
19 interest and principal payment dates shall have been so credited. There shall
20 similarly be credited to the Account any amount necessary to pay the bank fiscal
21 agency charges for paying principal and interest on outstanding bonds as the same
22 become payable. The City shall, from the sums deposited in the Sinking Fund
23 and credited to the Debt Service Account, remit promptly to the registered owner
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1 or to the bank fiscal agency sufficient moneys to pay the principal and interest on
2 the due dates thereof together with the amount of bank fiscal agency charges.

3
4 There is hereby continued, within the Sinking Fund, the Reserve Account
5 which shall serve as the debt service reserve for all Outstanding Bonds and any
6 Bonds issued hereunder. The City may deposit Bond proceeds, funds on hand, or
7 a combination thereof, into the Reserve Account on the date of delivery of any
8 series of Bonds to cause the balance therein to equal the hereinafter defined
9 Reserve Requirement. If the balance does not equal the Reserve Requirement on
10 the date of delivery of the Bonds, the City shall deposit a sum of Net Revenues of
11 the waterworks into the Reserve Account on the last day of each calendar month
12 until the balance therein equals the maximum annual debt service on the Bonds,
13 the Outstanding Bonds, and any parity bonds issued in the future by the City
14 which are payable from the Net Revenues of the waterworks ("Parity Bonds")
15 ("Reserve Requirement"). The monthly deposits shall be equal in amount and
16 sufficient to accumulate the Reserve Requirement within twelve (12) months of
17 the date of delivery of the Bonds. After the 2005 Bonds and 2006 Bonds are no
18 longer outstanding, the monthly deposits shall be equal in amount and sufficient
19 to accumulate the Reserve Requirement within five (5) years of the date of
20 delivery of the Bonds.
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23 The Reserve Account shall constitute the margin for safety and protection
24 against default in the payment of principal of and interest on the Bonds, the
25 Outstanding Bonds and any Parity Bonds and the moneys in the Reserve Account
26 shall be used to pay current principal and interest on the Bonds, the Outstanding
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1 Bonds and any Parity Bonds to the extent that moneys in the Debt Service
2 Account are insufficient for that purpose. Amounts in the Reserve Account in
3 excess of the Reserve Requirement shall be transferred from time to time to the
4 Debt Service Account and thereupon applied to the required payments into the
5 Debt Service Account as provided above or shall be transferred to the
6 Depreciation Fund (as hereinafter defined). In the event moneys held in the
7 Reserve Account are used to pay principal of and interest on the Outstanding
8 Bonds, the Bonds or any Parity Bonds, then such depletion of the Reserve
9 Account shall be made up from available Net Revenues within twelve (12)
10 months from substantially equal monthly deposits, after required deposits to the
11 Debt Service Account, to restore the balance of the Reserve Account to an amount
12 equal to the Reserve Requirement.
13

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15 All or a part of the Reserve Requirement for the Bonds issued under this
16 ordinance may be deemed to be satisfied if there is on deposit in the Reserve
17 Account, any surety bond, insurance policy, guaranty, letter of credit or other
18 credit facility in any amount equal to the Reserve Requirement for the Bonds
19 without regard to any Outstanding Bonds not secured by the surety. If any Bonds
20 or Outstanding Bonds are owned by the Authority as part of its DWSRF Program,
21 the City must obtain the consent of the Authority to provide funding in its Reserve
22 Account as authorized in this paragraph. If any part of the Reserve Account for
23 the Bonds is funded as authorized in this paragraph, the City is authorized to
24 create a subaccount of the Reserve Account which only secures the Bonds.
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1 After the Outstanding Bonds which are not owned by the Authority as part
2 of its DWSRF Program are no longer outstanding (the 2005 Bonds, the 2012
3 Bonds and the 2014 Bonds), the City shall be authorized to create a subaccount
4 within the Reserve Account to secure any Parity Bonds which are not sold to the
5 Authority as part of its DWSRF Program to be funded at a level equal to the least
6 of (i) maximum annual debt service on the Parity Bonds (not initially purchased
7 by or for the account of the DWSRF Program); (ii) 125% of average annual debt
8 service on the Parity Bonds (not initially purchased by or for the account of the
9 DWSRF Program) or (iii) 10% of the proceeds of the Parity Bonds (not initially
10 purchased by or for the account of the DWSRF Program) ("Open Market Reserve
11 Requirement"). The subaccount shall be funded on a parity basis with the
12 Reserve Account with any withdraws from the Reserve Account and the
13 subaccount being replenished on a parity basis.

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15
16 So long as the 2005 Bonds and 2006 Bonds remain outstanding, in no
17 event shall any part of the Sinking Fund be used in calling bonds for redemption
18 prior to maturity except to the extent that the amount then in the Debt Service
19 Account of the Sinking Fund exceeds the amount required to pay the bonds which
20 will mature within a period of twelve (12) calendar months next following the
21 date of such redemption, together with all interest on the bonds payable in said
22 period. Any such excess of funds above said required level may also be used in
23 purchasing outstanding bonds at a price less than the then applicable redemption
24 price, if first approved by the Common Council. Moneys in the Sinking Fund
25 shall not be used for any purpose whatsoever except as stated in this section.
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1 If any Bonds are sold to the Authority as part of the DWSRF Program, the
2 Sinking Fund, containing the Debt Service Account and the Reserve Account, and
3 the Construction Account (to the extent funded with Bonds sold to the Authority
4 as part of the DWSRF Program) may be held by a financial institution acceptable
5 to the Authority, pursuant to terms acceptable to the Authority. If the Sinking
6 Fund and the accounts therein are held in trust, the City shall transfer the monthly
7 required amounts of Net Revenues to the Debt Service Account and the Reserve
8 Account in accordance with this Section 14, and the financial institution holding
9 such funds in trust shall be instructed to pay the required payments in accordance
10 with the payment schedules for the City's outstanding bonds. The financial
11 institution selected to serve in this role may also serve as Registrar and Paying
12 Agent for any series of the Bonds and for all or any of the outstanding bonds of
13 the City. The financial institution selected to serve in this role may also serve as
14 the Registrar and the Paying Agent for any series of the Bonds and for all or any
15 of the outstanding bonds of the City. If the Construction Account is so held in
16 trust, the City shall deposit the proceeds of the Bonds therein until such proceeds
17 are applied consistent with this ordinance and the Financial Assistance Agreement
18 with respect to the Bonds. The Mayor and the Controller are hereby authorized to
19 execute and deliver an agreement with a financial institution to reflect this trust
20 arrangement for all or a part of the Sinking Fund and the Construction Account in
21 the form of trust agreement as approved by the Mayor and the Controller,
22 consistent with the terms and provisions of this ordinance.
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1 Section 15. Funding Improvements to the Waterworks. Any excess
2 revenues of the waterworks available after making the deposits required by
3 Sections 13 and 14 may be set aside and paid into the special utility fund which is
4 hereby continued and designated as the Waterworks Depreciation Fund
5 ("Depreciation Fund"), and be used to pay the cost of additions, improvements
6 and extensions to the waterworks, and to make payments representing PILOTs.
7 The City reserves the right to transfer PILOTs from the Depreciation Fund no
8 more frequently than semiannually, in accordance with the Act, and only if all
9 required transfers have been made to the Sinking Fund and the Accounts of the
10 Sinking Fund contain the required balances as of the date the PILOTs are paid. If
11 any BANs or Bonds are sold to the Authority as part of its DWSRF Program, so
12 long as any of the BANs or Bonds are outstanding, no moneys derived from the
13 revenues of the waterworks shall be transferred to the General Fund of the City or
14 be used for any purpose not connected with the waterworks, other than to pay
15 PILOTs as set forth in this section. In no event shall any PILOTs be treated as an
16 expense of operation and maintenance, nor in any case shall it be payable from
17 the Operation and Maintenance Fund or the Sinking Fund. No revenues of the
18 waterworks shall be deposited in or credited to the Depreciation Fund which will
19 interfere with the requirements of the Sinking Fund.
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23 In the event of any deficiency at any time in the Operation and
24 Maintenance Fund or the Sinking Fund, funds may be withdrawn from the
25 Depreciation Fund for deposit into said Operation and Maintenance Fund or
26 Sinking Fund in the amount of such deficiency.
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1 Section 16. Maintenance of Accounts; Investments. The Sinking Fund
2 shall be deposited in and maintained as a separate banking account or accounts
3 from all other accounts of the City. The Operation and Maintenance Fund and the
4 Depreciation Fund may be maintained in a single banking account, or accounts,
5 but such account, or accounts, shall likewise be maintained separate and apart
6 from all other banking accounts of the City and apart from the Sinking Fund
7 account or accounts. All moneys deposited in the accounts shall be deposited,
8 held and secured as public funds in accordance with the public depository laws of
9 the State of Indiana; provided that moneys therein may be invested in obligations
10 in accordance with the applicable laws, including particularly IC 5-13, as
11 amended or supplemented and as applicable, pursuant to IC 5-1.2-1 through IC 5-
12 1.2-4 and IC 5-1.2-10, and in the event of such investment the income therefrom
13 shall become a part of the funds invested and shall be used only as provided in
14 this ordinance. Nothing in this section or elsewhere in this ordinance shall be
15 construed to require that separate bank accounts be established and maintained for
16 the Funds and Accounts continued by this ordinance except that (a) the Sinking
17 Fund and the Construction Account shall be maintained as a separate bank
18 account from the other Funds and Accounts of the waterworks, and (b) the other
19 Funds and Accounts of the waterworks shall be maintained as a separate bank
20 account from the other funds and accounts of the City.

21 Section 17. Defeasance of the Bonds. If, when the Bonds or a portion
22 thereof shall have become due and payable in accordance with their terms or shall
23 have been duly called for redemption or irrevocable instructions to call the Bonds

1 or a portion thereof for redemption shall have been given, and the whole amount
2 of the principal and the interest and the premium, if any, so due and payable upon
3 all of the Bonds or a portion thereof then outstanding shall be paid; or (i) cash
4 (insured at all times by the Federal Deposit Insurance Corporation or otherwise
5 collateralized with obligations described in (ii) below), or (ii) direct obligations of
6 (including obligations issued or held in book entry form on the books of) the
7 Department of the Treasury of the United States of America, the principal of and
8 the interest on which when due will provide sufficient moneys for such purpose,
9 shall be held in trust for such purpose, and provision shall also be made for paying
10 all fees and expenses for the redemption, then and in that case the Bonds or any
11 designated portion thereof issued hereunder shall no longer be deemed
12 outstanding or entitled to the pledge of the Net Revenues of the City's
13 waterworks.
14

15
16 Section 18. Rate Covenant. The City shall establish and maintain just
17 and equitable rates for the use of and the service rendered by the waterworks,
18 which shall to the extent permitted by law produce sufficient revenues at all times
19 to pay all the legal and other necessary expense incident to the operation of such
20 utility, to include maintenance costs, operating charges, upkeep, repairs, interest
21 charges on bonds or other obligations, to provide for the proper Operation and
22 Maintenance (as defined in the Financial Assistance Agreement), to comply with
23 and satisfy all covenants contained in this ordinance and the Financial Assistance
24 Agreement, to provide the sinking fund and debt service reserve for the
25 liquidation of bonds or other evidences of indebtedness, to provide adequate funds
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1 to be used as working capital, as well as funds for making extensions, additions,
2 and replacements, and also, for the payment of any taxes that may be assessed
3 against such utility, it being the intent and purpose hereof that such charges shall
4 produce an income sufficient to maintain such utility property in a sound physical
5 and financial condition to render adequate and efficient service. So long as any of
6 the Bonds herein authorized are outstanding, none of the facilities or services
7 afforded or rendered by said system shall be furnished without a reasonable and
8 just charge being made therefor. The City shall pay like charges for any and all
9 services rendered by said utility to the City, and all such payments shall be
10 deemed to be revenues of the utility. Such rates or charges shall, if necessary, be
11 changed and readjusted from time to time so that the revenues therefrom shall
12 always be sufficient to meet the expenses of Operation and Maintenance, and said
13 requirements of the Sinking Fund.

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

23
24 (a) All required payments into the Sinking Fund and the accounts
25 thereof shall have been made in accordance with the provisions of this ordinance,
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1 and the interest on and principal of all bonds payable from the Net Revenues of
2 the waterworks shall have been paid to date in accordance with their terms.

3 (b) As of the date of issuance of such additional Parity Bonds, the
4 balance in the Reserve Account shall equal not less than the Reserve Requirement
5 for the Outstanding Bonds if any are then outstanding, the Bonds and all then
6 outstanding bonds ranking on a parity therewith, provided, this condition shall be
7 deemed satisfied if any required amount is to be provided from the proceeds of
8 the newly issued Parity Bonds or other funds of the City, and furthermore, the
9 ordinance authorizing the proposed additional Parity Bonds must include a
10 provision requiring the City to build the balance in the Reserve Account to an
11 amount equal to the Reserve Requirement for the proposed additional Parity
12 Bonds, unless the Reserve Account is fully funded as of the time of issuance of
13 the additional Parity Bonds, from available Net Revenues within twelve (12)
14 months from substantially equal monthly deposits after required deposits to the
15 Debt Service Account. After the 2005 Bonds and the 2006 Bonds are no longer
16 outstanding, the City may fund its Reserve Account for the additional Parity
17 Bonds from available Net Revenues over a five year period with substantially
18 equal monthly deposits of Net Revenues after the required deposits to the Debt
19 Service Account.

20 (c) The Net Revenues of the waterworks in the fiscal year immediately
21 preceding the issuance of any such additional Parity Bonds shall be not less than
22 one hundred twenty-five percent (125%) of the maximum annual interest and
23 principal requirements of the then outstanding bonds and the additional Parity
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1 Bonds proposed to be issued; or, prior to the issuance of said Parity Bonds, the
2 water rates and charges shall be increased or the service area or customer base
3 shall be expanded sufficiently so that said increased rates and charges applied to
4 the previous fiscal year's operations would have produced Net Revenues for said
5 year equal to not less than one hundred twenty-five percent (125%) of the
6 maximum annual interest and principal requirements of the then outstanding
7 bonds and the additional Parity Bonds proposed to be issued. For purposes of this
8 subsection, the records of the waterworks shall be analyzed and all showings shall
9 be prepared by a certified public accountant employed by the City for that
10 purpose. In addition, for purposes of this subsection, with respect to any Parity
11 Bonds hereafter issued while the Bonds remain outstanding and owned by the
12 Authority as part of its DWSRF Program, Net Revenues may not include any
13 revenues from the System Development Charges unless the Authority provides its
14 consent to include all or some portion of the System Development Charges as part
15 of the Net Revenues or otherwise consents to the issuance of such Parity Bonds
16 without satisfying this subsection (c).
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19

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

3 (e) If any Bonds are sold to the Authority through its DWSRF
4 Program, (i) the City has obtained the consent of the Authority, (ii) the City has
5 faithfully performed and is in compliance with each of its obligations,
6 agreements, and covenants contained in the Financial Assistance Agreement and
7 this ordinance, and (iii) the City is in compliance with its waterworks permits,
8 except for non-compliance for which the Parity Bonds are to be issued, including
9 refunding bonds issued prior to, but part of, the overall plan to eliminate such
10 non-compliance.
11
12

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

16 (a) All contracts let by the City in connection with the Project shall be
17 let after due advertisement as required by the laws of the State of Indiana, and all
18 contractors shall be required to furnish surety bonds in an amount equal to one
19 hundred percent (100%) of the amount of such contracts, to insure the completion
20 of said contracts in accordance with their terms, and such contractors shall also be
21 required to carry such employer's liability and public liability insurance as are
22 required under the laws of the State of Indiana in the case of public contracts, and
23 shall be governed in all respects by the laws of the State of Indiana relating to
24 public contracts.
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1 (b) The Project shall be completed under the supervision and subject
2 to the approval of the consulting engineers for the Project or such other competent
3 engineer as shall be designated by the Common Council.
4

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

8 (d) So long as any of the Bonds or BANs herein authorized are
9 outstanding, the City shall maintain insurance (which must be acceptable to the
10 Authority if the Authority owns any Bonds or Outstanding Bonds) on the
11 insurable parts of the waterworks of a kind and in an amount such as would
12 normally be carried by private companies engaged in a similar type of business.
13 All insurance shall be placed with responsible insurance companies qualified to
14 do business under the laws of the State of Indiana. In addition to or in lieu of the
15 foregoing, the City may provide coverage on all or part of the waterworks
16 comparable to that described above through a self-insurance program, but only
17 with the consent of the Authority, if any Bonds or Outstanding Bonds are owned
18 by the Authority as part of its DWSRF Program. All insurance proceeds and
19 condemnation awards shall be used in replacing or restoring the property
20 destroyed, damaged or taken; or, if not used for such purposes, shall be treated
21 and applied as Net Revenues of the waterworks, but only with the consent of the
22 Authority if any Bonds or Outstanding Bonds are owned by the Authority as part
23 of its DWSRF Program.
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1 (e) So long as any of the Bonds or BANs are outstanding, the City
2 shall not mortgage, pledge or otherwise encumber such works or any part thereof,
3 nor shall it sell, lease or otherwise encumber such works of any part thereof, nor
4 shall it otherwise dispose of any portion thereof except equipment or property
5 which may become worn out, obsolete, or no longer suitable for use in the
6 waterworks, provided that the City shall obtain the prior written consent of the
7 Authority if any Bonds or Outstanding Bonds are owned by the Authority as part
8 of its DWSRF Program.
9

10 (f) If the BANs or Bonds are sold to the Authority through its
11 DWSRF Program and the Bonds or Outstanding Bonds are outstanding and
12 owned by the Authority, the City shall not without the prior written consent of the
13 Authority (i) enter into any lease, contract or agreement or incur any other
14 liabilities in connection with the waterworks other than for normal operating
15 expenditures, or (ii) borrow any money (including without limitation any loan
16 from other utilities operated by the City) in connection with the waterworks.
17

18 (g) Except as hereinbefore provided in Section 19 hereof, so long as
19 any of the Bonds herein authorized are outstanding, no additional bonds or other
20 obligations pledging any portion of the revenues of said waterworks shall be
21 authorized, executed or issued by the City except such as shall be made
22 subordinate and junior in all respects to the Bonds herein authorized, unless all of
23 the Bonds herein authorized are redeemed, retired or defeased pursuant to
24 Section 17 hereof coincidentally with the delivery of such additional bonds or
25 other obligations.
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1 (h) The provisions of this ordinance shall constitute a contract by and
2 between the City and the owners of the Bonds and BANs herein authorized, and
3 after the issuance of the Bonds and BANs, subject to the rights of the City under
4 Section 21 hereof, this ordinance shall not be repealed or amended in any respect
5 which will adversely affect the rights of the owners of the Bonds and BANs, nor
6 shall the Common Council adopt any law, ordinance or resolution which in any
7 way adversely affects the rights of such owners so long as any of the Bonds or
8 BANs or the interest thereon remains unpaid. Except in the case of changes
9 described in Section 21(a)-(f), this ordinance may be amended, however, without
10 the consent of the owners of the Bonds or BANs, if the Common Council
11 determines, in its sole discretion, that such amendment would not adversely affect
12 the owners of the Bonds and BANs; provided, however, that if any Bonds or
13 BANs are sold to the Authority as part of its DWSRF Program, the City shall
14 obtain the prior written consent of the Authority.
15

16 (i) The provisions of this ordinance shall be construed to create a trust
17 in the proceeds of the sale of the Bonds and BANs herein authorized for the uses
18 and purposes herein set forth, and the owners of the Bonds and BANs shall retain
19 a lien on such respective proceeds until the same are applied in accordance with
20 the provisions of this ordinance and of the Act. The provisions of this ordinance
21 shall also be construed to create a trust in the portion of the Net Revenues herein
22 directed to be set apart and paid into the Waterworks Sinking Fund for the uses
23 and purposes of said fund as in this ordinance set forth. The owners of said
24 Bonds shall have all of the rights, remedies and privileges under Indiana law in
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1 the event of default in the payment of the principal of or interest on any of the
2 Bonds herein authorized or in the event of default in respect to any of the
3 provisions of this ordinance or the Act.
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5 (j) For purpose this Section 20, the term "lease" shall include any
6 lease, contract, or other instrument conferring a right upon the City to use
7 property in exchange for a periodic payments made from the revenues of the
8 waterworks, whether the City desires to cause such to be, or by its terms (or its
9 intended effects) is to be, (i) payable as rent, (ii) booked as an expense or an
10 expenditure, or (iii) classified for accounting or other purposes as a capital lease,
11 financing lease, operating lease, non-appropriation leases, installment purchase
12 agreement or lease, or otherwise (including any combination thereof).
13

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

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

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

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

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

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

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

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

16
17
18 Section 22. Investment of Funds. (a) The Controller is hereby
19 authorized to invest moneys pursuant to the provisions of this ordinance and IC 5-
20 1-14-3 (subject to applicable requirements of federal law to insure such yield is
21 then current market rate) to the extent necessary or advisable to preserve the
22 exclusion from gross income of interest on the Bonds and BANs under federal
23 law.
24

25 (b) The Controller shall keep full and accurate records of investment
26 earnings and income from moneys held in the funds and accounts referenced
27
28

1 herein. In order to comply with the provisions of the ordinance, the Controller is
2 hereby authorized and directed to employ consultants or attorneys from time to
3 time to advise the City as to requirements of federal law to preserve the tax
4 exclusion. The Controller may pay any fees as operation expenses of the
5 waterworks.
6

7 Section 23. Tax Covenants. In order to preserve the exclusion of
8 interest on the Bonds and BANs from gross income for federal tax purposes under
9 Section 103 of the Internal Revenue Code of 1986 as existing on the date of
10 issuance of the Bonds or BANs, as the case may be ("Code"), and as an
11 inducement to purchasers of the Bonds and BANs, the City represents, covenants
12 and agrees that:
13

14 (a) The waterworks will be available for use by members of the
15 general public. Use by a member of the general public means use by natural
16 persons not engaged in a trade or business. No person or entity other than the
17 City or another state or local governmental unit will use more than 10% of the
18 proceeds of the Bonds or BANs or property financed by the Bond or BAN
19 proceeds other than as a member of the general public. No person or entity other
20 than the City or another state or local governmental unit will own property
21 financed by Bond or BAN proceeds or will have any actual or beneficial use of
22 such property pursuant to a lease, a management or incentive payment contract,
23 arrangements such as take-or-pay or output contracts or any other type of
24 arrangement that conveys other special legal entitlements and differentiates that
25 person's or entity's use of such property from use by the general public, unless
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1 such uses in the aggregate relate to no more than 10% of the proceeds of the
2 BANs or the Bonds, as the case may be. If the City enters into a management
3 contract for the waterworks, the terms of the contract will comply with IRS
4 Revenue Procedure 2017-13, as it may be amended, supplemented or superseded
5 for time to time, so that the contract will not give rise to private business use
6 under the Code and the Regulations, unless such use in aggregate relates to no
7 more than 10% of the proceeds of the Bonds or BANs, as the case may be.
8

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

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

23 (d) The City reasonably expects, as of the date hereof, that the Bonds
24 and BANs will not meet either the private business use test described in paragraph
25 (a) and (b) above or the private loan test described in paragraph (c) above during
26 the entire term of the Bonds or BANs, as the case may be.
27

1 (e) No more than 5% of the proceeds of the Bonds or BANs will be
2 attributable to private business use as described in (a) and private security or
3 payments described in (b) attributable to unrelated or disproportionate private
4 business use. For this purpose, the private business use test is applied by taking
5 into account only use that is not related to any government use of proceeds of the
6 issue (Unrelated Use) and use that is related but disproportionate to any
7 governmental use of those proceeds (Disproportionate Use).
8

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

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

23 (h) The City represents that it will rebate any arbitrage profits to the
24 United States in accordance with the Code.
25

26 (i) These covenants are based solely on current law in effect and in
27 existence on the date of delivery of such Bonds or BANs, as the case may be.
28

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

14
15
16 (b) The Mayor and the Controller are hereby authorized and directed
17 to execute a Purchase Agreement or Financial Assistance Agreement (and any
18 amendments made from time to time) in such form or substance as they shall
19 approve acting upon the advice of counsel. The Mayor, the Controller and the
20 Clerk may also take such other actions or deliver such other certificates as are
21 necessary or desirable in connection with the issuance of the BANs or the Bonds
22 and the other documents needed for the financing as they deem necessary or
23 desirable in connection therewith.

24
25 Section 25. Noncompliance with Tax Covenants. Notwithstanding any
26 other provisions of this ordinance, the covenants and authorizations contained in
27

1 this ordinance ("Tax Sections") which are designed to preserve the exclusion of
2 interest on the Bonds and BANs from gross income under federal law ("Tax
3 Exemption") need not be complied with if the City receives an opinion of
4 nationally recognized bond counsel that any Tax Section is unnecessary to
5 preserve the Tax Exemption.
6

7 Section 26. Conflicting Ordinances. All ordinances and parts of
8 ordinances in conflict herewith are hereby repealed; provided, however, that this
9 ordinance shall not be deemed in any way to repeal or amend the ordinances
10 authorizing the issuance of the Outstanding Bonds, nor be construed as adversely
11 affecting the rights of the holders of the Outstanding Bonds.
12

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

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

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.

1 Distribution System - Capacity Improvements

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

6 Advanced Metering Infrastructure (AMI) Improvements

7 The City plans to implement an AMI (Advanced Metering Infrastructure) system to collect
8 water meter readings via a new fixed communication network. The existing AMR system that
9 was installed in 2003-04 is at the end of its useful life. These improvements will include an
10 upgrade of portions of the existing water meter reading and billing system. There are over
11 100,000 accounts that will have AMI equipment installed and approximately 70,000 small
12 meter accounts that will have their water meter replaced. Most of the small meters were
13 also installed in 2003-2004 and are at their end of useful life. This project is proposed to be
14 funded by Water and Sewer Utility bonds.

12 Water Main Rehabilitation/Replacement

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

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

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

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

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

**STATE OF INDIANA
DRINKING WATER REVOLVING LOAN PROGRAM**

FINANCIAL ASSISTANCE AGREEMENT made as of this ____ day of _____ 2018 by and between the Indiana Finance Authority (the "Finance Authority"), a body politic and corporate, not a state agency but an independent instrumentality of the State of Indiana (the "State") and the City of Fort Wayne, Indiana (the "Participant"), a political subdivision as defined in I.C. 5-1.2-2-57, operating its water utility under I.C. 8-1.5, witnesseth:

WHEREAS, the State's Drinking Water Revolving Loan Program (the "Drinking Water SRF Program") has been established in accordance with the federal Safe Drinking Water Act and any regulations promulgated thereunder, and pursuant to I.C. 5-1.2-10 (the "Drinking Water SRF Act"), which Drinking Water SRF Act also establishes the drinking water revolving loan fund (the "Drinking Water SRF Fund"); and

WHEREAS, pursuant to the Drinking Water SRF Act, the State was authorized to fund the Drinking Water SRF Program with federal capitalization grants, together with required state matching funds therefor, and to operate the Drinking Water SRF Program, and prior to May 15, 2005 so funded and operated the Drinking Water SRF Program; and

WHEREAS, pursuant to Public Law 235 - 2005, by operation of law and effective May 15, 2005, the Finance Authority has become the successor to the State in all matters related to the Drinking Water SRF Program (including use and acceptance of federal capitalization grants and required state matching funds and operation of the Drinking Water SRF Program); and

WHEREAS, the Participant is a duly existing political subdivision of the State, lawfully empowered to undertake all transactions and execute all documents mentioned or contemplated herein; and

WHEREAS, the Participant has previously entered into thirteen (13) Financial Assistance Agreements with the Finance Authority (or the State in its capacity as predecessor to the Finance Authority in matters related to the Wastewater SRF Program and the Drinking Water SRF Program), dated as of October 14, 2005, December 13, 2006, January 1, 2009, September 15, 2009, December 23, 2009, October 26, 2011, October 26, 2011, November 15, 2011, September 10, 2012, July 17, 2014, November 20, 2014, July 12, 2016 and October 12, 2016 (collectively the "Prior Agreements"), to borrow money from the Wastewater SRF Program or the Drinking Water SRF Program to construct and acquire separate projects (as described and defined in the Prior Agreements); and

WHEREAS, the Participant has determined to undertake a drinking water system project (as more fully described herein, the "Project") and to borrow money from the Drinking Water SRF Program to construct and acquire the Project; and

WHEREAS, the Finance Authority and the Participant desire to set forth the terms of such financial assistance as hereinafter provided.

NOW THEREFORE, in consideration of the mutual covenants herein set forth, the Finance Authority and the Participant agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following terms shall, for all purposes of this Agreement, have the following meaning:

“Agency” shall mean the United States Environmental Protection Agency or its successor.

“Authorizing Instrument(s)” shall mean the separate trust indenture(s) of the Participant entered into with a corporate trustee or the detailed resolution(s) or ordinance(s) of the governing body of the Participant pursuant to which the Bonds are issued in accordance with State law.

“Authorized Representative” shall mean the Controller of the Participant or such other officer, official, or representative of the Participant duly authorized to act for and on behalf of the Participant as provided for herein.

“Bond” or **“Bonds”** shall mean the instrument(s) **[[including the Series A Bonds and Series B Bonds]]** which evidence(s) the Loan, as authorized by the Authorizing Instrument and containing the terms set forth in Section 2.02 of this Agreement.

“Bond Fund” shall mean the separate and segregated fund or account established and created by the Participant pursuant to the Authorizing Instrument from which payment of the principal of and interest on the Bonds is required to be made by the Participant.

“Business Day” shall mean any day other than a Saturday, Sunday or State legal holiday or any other day on which financial institutions in the State are authorized by law to close and to remain closed.

“Code” shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, together with the regulations related thereto.

“Commission” shall mean the Indiana Utility Regulatory Commission created under I.C. 8-1-1-2 or its successor.

“Construction Fund” shall mean the separate and segregated fund or account established and created by the Participant pursuant to the Authorizing Instrument to receive proceeds of the Bonds and from which Eligible Costs of the Project may be paid by the Participant.

“Credit Instrument” means a letter of credit, surety bond, liquidity facility, insurance policy or comparable instrument furnished by a Credit Provider that is used by the Participant to meet all or a portion of any debt service reserve requirement securing the Bonds or any other bonds payable from the revenues of the Drinking Water System, which bonds are on a parity with the Bonds.

“Credit Provider” means a bank, insurance company, financial institution or other entity providing a Credit Instrument.

“Department” shall mean the Indiana Department of Environmental Management created under I.C. 13-13-1-1 or its successor.

“Deposit Agreement” shall mean an agreement between the Participant and the Deposit Agreement Counterparty in such form as from time to time determined by the Finance Authority pursuant to which (a) the Participant’s Bond Fund (including any reserve account established and created by the Participant pursuant to the Authorizing Instrument related thereto) shall be held by such Deposit Agreement Counterparty and available for payment of the Bonds and any other similar obligations of the Participant that are payable from the Bond Fund regardless whether they are on a parity basis, (b) such Deposit Agreement Counterparty serves as the paying agent for the Bonds and any other such similar obligations of the Participant that are payable from the Bond Fund, and (c) the Participant’s Construction Fund may be held by such Deposit Agreement Counterparty upon any Loan disbursement by the Finance Authority to it from time to time.

“Deposit Agreement Counterparty” shall mean the financial institution that enters into a Deposit Agreement with the Participant, which financial institution shall be approved by the Finance Authority and may be replaced by the Finance Authority from time to time.

“Director of Environmental Programs” shall mean the person designated by the Finance Authority as authorized to act as the Director of Environmental Programs (which designation includes such Director’s assumption of the duties previously assigned to the Drinking Water SRF Program Representative and the Drinking Water SRF Program Director) and where not limited, such person’s designee.

“Disbursement Agent” shall mean the party disbursing the Loan to or for the benefit of the Participant, which shall be the Trustee unless amounts are held in the Construction Fund, in which case the Disbursement Agent shall thereafter be the Deposit Agreement Counterparty as the party disbursing amounts that are held in the Construction Fund unless otherwise agreed by the Finance Authority.

“Disbursement Request” shall mean a request for a disbursement of the Loan made by an Authorized Representative in such form as the Finance Authority may from time to time prescribe.

“Drinking Water SRF Fund” shall mean the drinking water revolving loan fund as

established by I.C. 5-1.2-10-2.

“Drinking Water SRF Indenture” shall mean the Third Amended and Restated Drinking Water SRF Trust Indenture, dated as of April 1, 2007 between the Finance Authority (as successor by operation of law to the State in all matters related to the Drinking Water SRF Program) and the Trustee, as amended and supplemented from time to time.

“Drinking Water System” shall mean all, or any part of, the system for the provision to the public of water for human consumption through pipes and other constructed conveyances that:

- (1) has at least fifteen (15) service connections; or
- (2) regularly serves at least twenty-five (25) individuals;

and as further defined and described in I.C. 13-11-2-177.3 and SRF Policy Guidelines, as amended and supplemented from time to time.

“Eligible Cost” shall mean and include, whether incurred before or after the date of this Agreement, all costs which have been incurred and qualify for Financial Assistance, including engineering, financing and legal costs related thereto.

“Finance Authority” shall mean the Indiana Finance Authority, a body politic and corporate, not a state agency but an independent instrumentality of the State.

“Finance Authority Bonds” shall mean (A) any Indiana Bond Bank State Revolving Fund Program Bonds issued as a part of the Drinking Water SRF Program within the meaning of the Drinking Water SRF Indenture and (B) any Finance Authority State Revolving Fund Program Bonds or other similar obligations of the Finance Authority issued as a part of the Drinking Water SRF Program within the meaning of the Drinking Water SRF Indenture.

“Financial Assistance” shall mean the financial assistance authorized by the Safe Drinking Water Act, including the Loan.

“Loan” shall mean the purchase of the Bonds by the Finance Authority to finance the planning, designing, constructing, renovating, improving and expanding of the Participant’s Drinking Water System or refinance an existing debt obligation where such debt was incurred and building of such systems began after July 1, 1993, but does not mean the provision of other Financial Assistance.

“Loan Reduction Payment” shall mean in any circumstances where there is a balance (inclusive of Loan proceeds and any earnings) in the Construction Fund, any action causing such balance to be applied to a reduction in the maximum aggregate amount of the Loan outstanding other than pursuant to regularly scheduled principal payments or optional redemptions applicable to the Bonds. A Loan Reduction Payment shall not be applicable unless Loan amounts are held in the Construction Fund.

“Non-Use Close-out Date” shall mean that date which is the earlier of (a) the first date as of which the full amount of the Loan has been disbursed on a cumulative basis (which shall also be deemed to have occurred when and if such amounts have been deposited in the Participant’s Construction Fund) or (b) the date as of which the Participant binds itself that no further Loan disbursements will be made under this Agreement.

“Non-Use Fee” shall mean a fee in an amount determined by the Finance Authority charged to compensate it for costs and expenses within the Drinking Water SRF Program. Such amount shall be the greater of (A) the product of the undrawn balance of the Loan on each applicable Non-Use Assessment Date multiplied by one percent (1%) or (B) One Thousand Dollars (\$1,000). Such fee shall apply and be payable under Section 5.09 herein with respect to each Non-Use Assessment Date until the Non-Use Close-out Date shall occur. A Non-Use Fee shall not be applicable if the full amount of the Loan has been disbursed and deposited in the Participant’s Construction Fund by the Non-Use Assessment Date.

“Non-Use Assessment Date” shall mean _____ 1, 2020 and the first day of each sixth (6th) calendar month thereafter unless and until the Non-Use Close-out Date occurs in advance of any such Non-Use Assessment Date.

“Operation and Maintenance” shall mean the activities required to assure the continuing dependable and economic function of the Drinking Water System, including maintaining compliance with primary and secondary drinking water standards, as follows:

(1) Operation shall mean the control and management of the united processes and equipment which make up the Drinking Water System, including financial and personnel management, records, reporting, laboratory control, process control, safety and emergency operation planning and operating activities.

(2) Maintenance shall mean the preservation of the functional integrity and efficiency of equipment and structures by implementing and maintaining systems of preventive and corrective maintenance, including replacements.

“Plans and Specifications” shall mean the detailed written descriptions of the work to be done in undertaking and completing the Project, including the written descriptions of the work to be performed and the drawings, cross-sections, profiles and the like which show the location, dimensions and details of the work to be performed.

“Preliminary Engineering Report” shall mean the information submitted by the Participant that is necessary for the Finance Authority to determine the technical, economic and environmental adequacy of the proposed Project.

“Project” shall mean the activities or tasks identified and described in Exhibit A to this Agreement, and incorporated herein, as amended or supplemented by the Participant and consented to by the Finance Authority, for which the Participant may expend the Loan.

“Purchase Account” shall mean the account by that name created by the Drinking Water SRF Indenture and held as part of the Drinking Water SRF Fund.

“Safe Drinking Water Act” shall mean the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq. and other laws, regulations and guidance supplemental thereto, as amended and supplemented from time to time including the 2014 Appropriations Act.

[[**“Series A Bonds”** shall mean the Bonds containing the terms set forth in Section 2.02(a) of this Agreement.

“Series B Bonds” shall mean the Bonds containing the terms set forth in Section 2.02(b) of this Agreement and consistent with the representation set forth in Section 3.03(k) of this Agreement.]]

“Settlement Costs” shall mean any and all fees, costs, losses or expenses incurred (or estimated to be incurred) by the Finance Authority resulting or arising from a Loan Reduction Payment (including without limitation interest and earnings differentials when the Finance Authority seeks to lend such Loan Reduction Payment to another Drinking Water SRF Program borrower). In connection with the Loan made pursuant to this Agreement, there are agreed to be no Settlement Costs.

“Settlement Fee” shall mean a fee payable by the Participant to the Finance Authority to compensate the Finance Authority for its Settlement Costs in circumstances where there has been a Loan Reduction Payment.

“SRF Policy Guidelines” shall mean guidance of general applicability (as from time to time published, amended and supplemented by the Finance Authority) pertaining to participants utilizing financial assistance in connection with their projects funded in whole or in part through the Drinking Water SRF Program.

“State” shall mean the State of Indiana.

“Substantial Completion of Construction” shall mean the day on which the Finance Authority (or if designated by the Finance Authority, the Department) determines that all but minor components of the Project have been built, all equipment is operational and the Project is capable of functioning as designed.

“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 applicable to the Drinking Water System that are available for deposit under the Authorizing Instrument.

“Trustee” shall mean The Bank of New York Mellon Trust Company, N.A., Indianapolis, Indiana, in its capacity as trustee or its successor under the Drinking Water SRF Indenture.

“2014 Appropriations Act” shall mean the Consolidated Appropriations Act, 2014 (also known as H.R. 3457), and other laws, regulations and guidance supplemental thereto (including the Safe Drinking Water Act), as amended and supplemented from time to time.

(End of Article I)

ARTICLE II

PURPOSE OF BORROWING AND LOAN TERMS

Section 2.01. Amount; Purpose. The Finance Authority agrees to Loan an amount not to exceed _____ Dollars (\$_____) in aggregate principal amount to the Participant as Financial Assistance to pay for the Eligible Costs, as hereinafter described, of the Project on, and subject to, the terms and conditions contained herein. The Loan shall be used only to pay the following Eligible Costs: (a) eligible planning services for the production of a Preliminary Engineering Report ("Planning"), (b) eligible design services for the production of Plans and Specifications ("Design") and (c) eligible construction costs, including financing and legal costs ("Construction"). The Loan shall be funded solely from available proceeds of the Finance Authority Bonds contained in the Purchase Account or from other sources that the Finance Authority may, in its sole discretion, designate. The Loan is evidenced by the Bonds executed and delivered by the Participant contemporaneously herewith. The Bonds shall be in fully registered form, with the Finance Authority registered as the registered owner. So long as the Finance Authority is the registered owner, the principal of and redemption premium, if any, and interest on the Bonds shall be paid to the Trustee by a wire transfer referenced as follows: The Bank of New York, ABA 021 000 018, For Credit to 610026840C, Account Name: City of Fort Wayne Water SRF, Attn: Derick Rush. The Participant agrees to undertake and complete the Project and to receive and expend the Loan proceeds in accordance with this Agreement.

Section 2.02. The Bonds.

(a) Until paid, the **[[Waterworks Revenue Bonds of 2018, Series A ("Series A Bonds")]]** will bear interest at the per annum rate of _____ percent (____%). Such interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months, and be as provided in I.C. 5-1.2-10-15 and -20. Interest, if any, on the **[[Series A]]** Bonds will be payable on June 1 and December 1 of each year, commencing December 1, 2018. The **[[Series A]]** Bonds will be in the aggregate principal amount of _____ Dollars (\$_____). Subject to Section 2.05 and 2.06 herein, the **[[Series A]]** Bonds will mature on December 1 to and including December 1, 2032, and thereafter on each June 1 and December 1, in the years set forth in, and at the principal amount set opposite each such month and year set forth in the schedule contained in the attached **[[Exhibit B-1]]** to this Agreement (which is hereby incorporated by reference); provided, however, notwithstanding the foregoing or the terms of the **[[Series A]]** Bonds to the contrary, no maturity of **[[Series A]]** Bonds shall extend beyond the date which is twenty (20) years after Substantial Completion of Construction. If the maturity date for any **[[Series A]]** Bonds is beyond such date, unless otherwise agreed to, such **[[Series A]]** Bonds, together with accrued and unpaid interest thereon, will be due and payable on such date.

[[(b) Until paid, the Waterworks Revenue Bonds of 2018, Series B ("Series B Bonds") will bear interest at the per annum rate of _____ percent (____%). Such interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months, and be as provided in I.C. 13-18-21-10 and -15 (as replaced by I.C. 5-1.2-10-15 and -20 effective July

1, 2018). Interest, if any, on the Series B Bonds will be payable on June 1 and December 1 of each year, commencing _____. The Series B Bonds will be in the aggregate principal amount of _____ Dollars (\$_____). Subject to Section 2.05 and 2.06 herein, the Series B Bonds will mature on December 1 to and including December 1, 2032, and thereafter on each June 1 and December 1, in the years set forth in, and at the principal amount set opposite each such month and year set forth in the schedule contained in the attached Exhibit B-2 to this Agreement (which is hereby incorporated by reference); provided, however, notwithstanding the foregoing or the terms of the Series B Bonds shall extend beyond the date which is thirty-five (35) years after the date of this Agreement. If the maturity date for any Series B Bonds is beyond such date, unless otherwise agreed to, such Series B Bonds, together with accrued and unpaid interest thereon, will be due and payable on such date.]]

(c) The Bonds will be subject to redemption by the Participant as provided in the Authorizing Instrument; provided however that in no event shall the Participant exercise any provision contained in the Authorizing Instrument or the Bonds permitting a redemption of the Bonds at the option of the Participant unless and until such has been consented by the Authority. The Loan, and the Bonds evidencing it, will be subject to payment by the Participant as provided in this Agreement.

(d) The form and other terms of the Bonds will be in conformity with the Authorizing Instrument.

(e) The additional terms contained in the attached Exhibit D are applicable to this Loan (as and to the extent set forth in Exhibit D) to the same effect as if such were set forth in this section.

Section 2.03. Disbursement Conditions. Each of the following shall be a condition precedent to the disbursement of the Loan or any portion thereof (including from the Construction Fund):

(a) (1) With respect to procurement of professional services related to the Project to be paid from Loan proceeds, the Participant shall have complied with applicable State law and SRF Policy Guidelines. (2) With respect to procurement of all other goods and services related to the Project to be paid from Loan proceeds, the Participant shall have complied with I.C. 36-1-12 and SRF Policy Guidelines.

(b) No representation, warranty or covenant of the Participant contained in this Agreement or in any paper executed and delivered in connection with the transactions contemplated by this Agreement shall be false or inaccurate in any material respect.

(c) The Participant shall undertake and faithfully perform each of its obligations, agreements and covenants contained in this Agreement, the Authorizing Instrument and the Bonds.

(d) There shall be available to the Finance Authority uncommitted funds in an amount sufficient to satisfy the Finance Authority's obligations hereunder from the proceeds of Finance Authority Bonds in the Purchase Account or from other sources that the Finance Authority may, in its sole discretion, designate; provided however, once Loan proceeds have been deposited in the Construction Fund, such condition shall be deemed satisfied.

(e) The Participant shall have undertaken all actions necessary to comply with and satisfy the conditions and requirements for a Loan secured with money made available from the Drinking Water SRF Fund as set forth in federal and State statutes, rules and regulations, including I.C. 5-1.2-10, SRF Policy Guidelines, the Safe Drinking Water Act and 40 C.F.R. Part 35.

(f) Prior to making any Loan disbursement to pay any Construction costs, the Project shall have been approved by the State's Historical Preservation Officer in a manner consistent with the policies and practices of the Drinking Water SRF Program (the "Historical Preservation Approval"). Notwithstanding any provision of this Agreement to the contrary, in the event a Historical Preservation Approval has not been given within four (4) months after the date of this Agreement, the Finance Authority may, in its sole discretion, (i) reduce the aggregate amount of the Loan to the amount then disbursed and outstanding under this Agreement and (ii) if any amounts are held in the Construction Fund, require a Loan Reduction Payment pursuant to Section 2.06 herein as if it were a date that was three (3) years after the dated date of the Bonds. Upon giving notice to the Participant of such action, no further Loan disbursement (including from the Construction Fund) may be made under this Agreement unless consented to by the Finance Authority.

(g) In the event the Bonds are payable from rates and charges of the Drinking Water System and if requested by the Finance Authority, the Participant shall provide evidence satisfactory to the Finance Authority demonstrating that such rates and charges are at a level adequate to produce and maintain sufficient net revenue after providing for the proper Operation and Maintenance of the Drinking Water System, on a proforma basis consistent with SRF Policy Guidelines, to provide 1.25x coverage on all obligations of the Drinking Water System (including the Bonds).

Section 2.04. Disbursement Procedures. Loan proceeds (including any held from time to time in the Construction Fund) shall be disbursed to the Participant by the Disbursement Agent for actual Eligible Costs incurred with respect to the Project. The Finance Authority may, in its discretion, cause Loan disbursements to be made (a) directly to the person or entity identified in the Disbursement Request to whom payment is due, or (b) if advised in writing by the Participant that I.C. 36-1-12-14 or a similar law applies to the Project, to the Participant for purposes of collecting retainage, or some combination thereof. Any Loan proceeds in excess of the amount subject to retainage controlled by the Participant will be immediately remitted to the person or entity to whom payment is due, no later than three (3) Business Days after receipt or the date such Loan proceeds are no longer subject to retainage. The Finance Authority may, in its

discretion, cause Loan disbursements to be made from time to time, in whole or in part, to the Participant's Construction Fund for disbursement consistent with this Agreement. Loan disbursements shall not be made more frequently than monthly and shall only be made following the submission of a Disbursement Request to the Finance Authority. Disbursement Requests shall be approved by the Director of Environmental Programs prior to submission to the Disbursement Agent for a Loan disbursement. Disbursement Requests shall be numbered sequentially, beginning with the number 1.

Section 2.05. Effect of Disbursements. Loan disbursements made to or for the benefit of the Participant shall be deemed to be a purchase of the Bonds in such amounts and with such maturities as achieves as level debt service as practicable, and with no maturity longer than the original maturity schedule; provided that any principal payments originally scheduled under Section 2.02 herein as being due prior to one year after Substantial Completion of Construction shall first be deemed to be a purchase of the Bonds in order of maturity. The deposit of Loan proceeds in the Construction Fund shall be deemed to be a purchase of the Bonds. Interest on the Loan commences on disbursement of the Loan to or for the benefit of the Participant (including any amounts disbursed to the Construction Fund) by the Finance Authority and the Bonds shall be deemed to be purchased in the full amount thereof. Each disbursement (including any amounts disbursed from the Construction Fund) shall be made pursuant to a Disbursement Request. In the event any Loan disbursement (including any amounts disbursed from the Construction Fund) shall be made in excess of Eligible Costs, such excess disbursements shall be immediately paid by the Participant to the Disbursement Agent (and if made from any amounts held in the Construction Fund, shall be immediately deposited by the Participant into such Construction Fund) and thereafter may, subject to the terms and conditions set forth in this Agreement, be applied thereafter to pay Eligible Costs of the Project by the Participant.

Section 2.06. Acknowledgment of Amount of Loan; Final Disbursement. (a) Within 30 days after any request by the Finance Authority from time to time, the Participant shall execute and deliver to the Finance Authority an acknowledgment in the form prescribed by the Finance Authority which acknowledges the outstanding principal of and interest on the Bonds. Unless the Finance Authority consents in writing, no Loan disbursement shall be made more than one year after Substantial Completion of Construction. After Substantial Completion of Construction, upon the request of the Finance Authority, the Participant shall replace, at its expense, the Bonds with substitutes issued pursuant to the Authorizing Instrument to evidence the outstanding principal under the Loan.

(b) In the event there remains a balance (inclusive of Loan proceeds and any earnings) in the Construction Fund on the date that is the earlier of (i) one year after Substantial Completion of Construction or (ii) three (3) years after the dated date of the Bonds (or in either such circumstance, such later date as the Finance Authority may approve in its discretion), the Participant agrees to make a Loan Reduction Payment, and to pay a Settlement Fee, to the Finance Authority within 10 days after any Finance Authority written demand. Any Loan Reduction Payment shall be applied to pay principal in such amounts and with such maturities as achieves as level debt service as practicable consistent with methodology prescribed in the Authorizing Instrument and as originally applied to the Bonds, and with no maturity longer than

the original maturity schedule; provided that any principal payments originally scheduled under Section 2.02 herein as being due prior to the Loan Reduction Payment shall be unaffected by such payment. If the Authorizing Instrument permits the Participant to apply Bond proceeds to pay interest accruing on or before Substantial Completion of Construction, the Participant may seek to reimburse itself for such interest costs it has paid pursuant to a Disbursement Request provided, unless otherwise approved by the Finance Authority, any such reimbursement shall be limited to the amount thereof that the Participant causes to be used to pay the Settlement Fee. If the Participant fails to make such Loan Reduction Payment or to pay a Settlement Fee by such date, the Finance Authority and Deposit Agreement Counterparty are authorized to cause any balance held in the Construction Fund to be so applied without further direction and authorization from the Participant. Notwithstanding the foregoing, if requested by the Finance Authority, in lieu of the Participant making a Loan Reduction Payment together with any Settlement Fee payment, the Finance Authority may in its discretion require the Participant to hold any remaining balance (inclusive of Loan proceeds and any earnings) in the Construction Fund until such amounts may be applied on the first optional redemption date applicable to the Bonds, and upon any such request, the Participant agrees to cause such amounts to be so held and applied on such date.

(End of Article II)

ARTICLE III

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTICIPANT

Section 3.01. Planning, Design and Construction Covenants. The Participant hereby covenants and agrees with the Finance Authority that the Participant will:

(a) Provide information as requested by the Finance Authority to determine the need for, or to complete any necessary, environmental review or analysis.

(b) Comply with the procurement procedures and affirmative action requirements contained in SRF Policy Guidelines in the Planning, Design and Construction of the Project to the extent that such are to be paid from Loan proceeds.

(c) With respect to prime and first tier contract awards, report minority and women business enterprise utilization in the Planning, Design and Construction of the Project, to the extent that such are to be paid from Loan proceeds, by executing and delivering Agency Form SF 5700-52 to the Finance Authority whenever any agreements or subagreements are awarded. (These reports must be submitted on regular reporting cycles consistent with SRF Policy Guidelines commencing after such agreement or subagreement is awarded.)

(d) Comply with all applicable federal, State and local statutes, rules and regulations relating to the acquisition and construction of the Drinking Water System.

(e) In the event Construction is to be paid from Loan proceeds, prior to an award of any contract for Construction of the Project, obtain a construction permit from the Department and receive the written approval of the Finance Authority of the Preliminary Engineering Report.

(f) Obtain the property rights necessary to construct the Drinking Water System and, in procuring any such rights comply with federal and State law.

(g) In the event Construction is to be paid from Loan proceeds, comply with the federal Davis-Bacon Act, codified at 40 U.S.C. 276a-276a-5 unless separately waived by the Finance Authority.

(h) In the event Construction is to be paid from Loan proceeds, execute and deliver to the Finance Authority Agency Form 4700-4 ("Pre-award Compliance Review Report for Wastewater Treatment Construction Grants") and such other forms as may be required by the Clean Water Act or SRF Policy Guidelines.

(i) In the event Construction is to be paid from Loan proceeds, follow guidance issued by the Finance Authority in procuring contracts for Construction, including (1)

submission to the Finance Authority of Project change orders, (2) obtaining approval from the Director of Environmental Programs of any Project change order which significantly changes the scope or Design of the Project or, when taking into account other change orders and contracts, are reasonably expected to result in expenditures in an amount greater than the Loan, (3) receiving approval from the Director of Environmental Programs prior to the award of any contract for Construction and (4) receiving authorization from the Director of Environmental Programs prior to initiating procurement of Construction of the Project.

(j) In the event Construction is to be paid from Loan proceeds, before awarding Construction contracts, receive approval of the Director of Environmental Programs for the user charge system (including any use ordinance and interlocal agreement) associated with the Project.

(k) In the event Construction is to be paid from Loan proceeds, cause the Project to be constructed in accordance with the Preliminary Engineering Report and the Plans and Specifications, using approved contract papers.

(l) Permit the Finance Authority and its agents to inspect from time to time (1) the Project, (2) the Drinking Water System and (3) the books and other financial records of the Drinking Water System, including the inspections described in SRF Policy Guidelines. Construction contracts shall provide that the Finance Authority or its agents will have access to the Project and the work related thereto and that the Participant's contractor will provide proper facilities for such access and inspection. All files and records pertaining to the Project shall be retained by the Participant for at least six years after Substantial Completion of Construction.

(m) Upon Substantial Completion of Construction and when requested by the Finance Authority, provide audited reports to the Finance Authority to permit the Finance Authority to determine that the Loan proceeds have been used in compliance with this Agreement.

(n) In the event Construction is to be paid from Loan proceeds, within one year of Substantial Completion of Construction, consistent with SRF Policy Guidelines, certify to the Finance Authority that the Project meets performance standards, or if not met, (1) submit to the Finance Authority (or if directed by the Finance Authority, to the Department) a corrective action plan and (2) promptly and diligently undertake any corrective action necessary to bring the Project into compliance with such standards.

(o) In the event Construction is to be paid from Loan proceeds, within one year of Substantial Completion of Construction, provide as-built plans for the Project to the Finance Authority (or if directed by the Finance Authority, to the Department).

Section 3.02. General Covenants. The Participant hereby covenants and agrees with the Finance Authority that the Participant will:

(a) Comply with all applicable federal, State and local statutes, rules and regulations relating to Operation and Maintenance.

(b) (1) Own, operate and maintain the Project and the Drinking Water System for their useful life, or cause them to be operated and maintained for their useful life; (2) at all times maintain the Drinking Water System in good condition and operate it in an efficient manner and at a reasonable cost; and (3) not sell, transfer, lease or otherwise encumber the Drinking Water System or any portion thereof or any interest therein without the prior written consent of the Finance Authority

(c) Obtain and maintain the property rights necessary to operate and maintain the Drinking Water System, and in procuring any such rights, comply with federal and State law.

(d) Acquire and maintain insurance coverage acceptable to the Finance Authority, including fidelity bonds, to protect the Drinking Water System and its operations. All insurance shall be placed with responsible insurance companies qualified to do business under State law. Insurance proceeds and condemnation awards shall be used to replace or repair the Drinking Water System unless the Finance Authority consents to a different use of such proceeds or awards.

(e) Establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) in accordance with (1) generally accepted governmental accounting principles, as promulgated by the Government Accounting Standards Board (including GASB No. 34 standards relating to the reporting of infrastructure) and (2) the rules, regulations and guidance of the State Board of Accounts.

(f) Provide to the Finance Authority such periodic financial and environmental reports as it may request from time to time, including (1) annual operating and capital budgets and (2) such other information requested or required of the Finance Authority or the Participant by the Agency.

(g) Provide notice to the Finance Authority under the circumstances contemplated, and undertake inspections as required, by SRF Policy Guidelines.

(h) (1) Establish and maintain just and equitable rates and charges for the use of and the service rendered by the Drinking Water System, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses the Drinking Water System, or that in any way uses or is served by the Drinking Water System, (2) establish, adjust and maintain rates and charges at a level adequate to produce and maintain sufficient revenue (when determined including user and other charges, fees, income or revenues available to the Participant, provided that to the extent permitted by law System Development Charges shall be excluded when determining if such are sufficient) to provide for the proper Operation and Maintenance of the Drinking Water

System, to comply with and satisfy all covenants contained herein and to pay all obligations of the Drinking Water System and of the Participant with respect thereto, and (3) if and to the extent Bonds are payable from property taxes, levy each year a special ad valorem tax upon all property located in the boundaries of the Participant, to pay all obligations of the Participant with respect thereto.

(i) If the Bonds are payable from the revenues of the Drinking Water System, not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the Drinking Water System without the prior written consent of the Finance Authority if such undertaking would involve, commit or use the revenues of the Drinking Water System; provided that the Participant may authorize and issue additional obligations, payable out of the revenues of its Drinking Water System, ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions and improvements to the Drinking Water System, or to refund obligations of the Drinking Water System, subject to the conditions, if any, in the Authorizing Instrument.

(j) Comply with the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000d *et seq.*, the Age Discrimination Act, as amended, Public Law 94-135, Section 504 of the Rehabilitation Act of 1973, as amended (including Executive Orders 11914 and 11250), 29 U.S.C. Section 794, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, Executive Order 11246 regarding equal employment opportunity, and Executive Orders 11625 and 12138.

(k) Undertake all actions necessary to investigate all potential, material claims which the Participant may have against other persons with respect to the Drinking Water System and the Project and take whatever action is necessary or appropriate to (1) recover on any actionable, material claims related to the Project or the Planning, Design or Construction thereof, (2) meet applicable Project performance standards and (3) otherwise operate the Drinking Water System in accordance with applicable federal, State and local law.

(l) Not modify, alter, amend, add to or rescind any provision of the Authorizing Instrument without the prior written consent of the Finance Authority.

(m) In the event the Participant adopts an ordinance or resolution to refund the Bonds, within 5 days of the adoption of the ordinance or resolution, provide written notice to the Finance Authority of the refunding. Any refunding of the Bonds shall only be undertaken by the Participant with the prior written consent of the Finance Authority.

(n) In any year in which total expenditures of Federal financial assistance received from all sources exceeds \$750,000 the Participant shall comply with the Federal Single Audit Act (SAA) of 1984, as amended by the Federal Single Audit Act Amendments of 1996 (see 2 CFR 200 Subpart F) and have an audit of their use of Federal financial assistance. The Participant agrees to provide the Finance Authority with a copy of the SAA audit within 9 months of the audit period.

(o) Inform the Finance Authority of any findings and recommendations pertaining to the SRF program contained in an audit of 2 CFR 200 Subpart F (a/k/a "Super Circular") matters in which SRF Federal financial assistance was less than \$750,000.

(p) Initiate within 6 months of the audit period corrective actions for those audit reports with findings and recommendations that impact the SRF financial assistance.

(q) Notwithstanding anything in the Authorizing Instrument related to the Bonds (or in any authorizing instrument related to any other outstanding bonds payable from the revenues of the Drinking Water System which are on a parity with the Bonds) to the contrary, in the event any Credit Provider that has provided a Credit Instrument fails to be rated on a long term basis at least "A-/A3" by Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies, and Moody's Investors Service, Inc., and their successors (such Credit Instrument, a "Disqualified Instrument"), within 12 months of such failure (or pursuant to such other schedule as may be approved by the Finance Authority), the Participant shall cause cash (or a replacement Credit Instrument from a Credit Provider that is rated on a long term basis at least "AA-/Aa3" by Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies, and Moody's Investors Service, Inc., and their successors)(or some combination thereof) in an aggregate amount equal to the stated credit available under the Disqualified Instrument(s) to be deposited in the related reserve account(s) in lieu of such Disqualified Instrument(s). No Disqualified Instrument shall be included as part of the reserve balance which satisfies any such reserve requirement under any such authorizing instrument. Nothing in this subsection shall waive or modify additional requirements contained in any such authorizing instrument (including the Authorizing Instrument related to the Bonds); the provisions of this subsection and any such authorizing instrument (including the Authorizing Instrument related to the Bonds) shall both be required to be met. Unless and until notice shall be given by the Finance Authority to the Participant, a surety policy issued by MBIA Insurance Corporation or Financial Guaranty Insurance Company that has been reinsured by National Public Finance Guarantee Corporation (formerly known as MBIA Insurance Corp. of Illinois) shall not be treated as a Disqualified Instrument.

(r) (i) comply with Title 40 CFR Part 34 (New Restrictions on Lobbying) and the Byrd Anti-Lobbying Amendment ("Lobbying Restrictions"); (ii) provide certifications and disclosures related to Lobbying Restrictions in a form and manner as may from time to time be required by SRF Policy Guidelines or the Safe Drinking Water Act including without limitation the Lobbying Restrictions; and (iii) pay any applicable civil penalty required by the Lobbying Restrictions as may be applicable to making a prohibited

expenditure under Title 40 CFR Part 34, or failure to file any required certification or lobbying disclosures. The Participant understands and acknowledges that pursuant to such Lobbying Restrictions, the making of any such prohibited expenditure, or any such failure to file or disclose, is subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

(s) Comply with all federal requirements applicable to the Loan (including those imposed by the 2014 Appropriations Act and related SRF Policy Guidelines) which the Participant understands includes, among other, requirements that all of the iron and steel products used in the Project are to be produced in the United States ("American Iron and Steel Requirement") unless (i) the Participant has requested and obtained a waiver from the Agency pertaining to the Project or (ii) the Finance Authority has otherwise advised the Participant in writing that the American Iron and Steel Requirement is not applicable to the Project.

(t) Comply with all record keeping and reporting requirements under the Safe Drinking Water Act, including any reports required by a Federal agency or the Finance Authority such as performance indicators of program deliverables, information on costs and project progress. The Participant understands that (i) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the Safe Drinking Water Act and this Agreement may be a default hereunder that results in a repayment of the Loan in advance of the maturity of the Bonds and/or other remedial actions.

(u) Whenever from time to time requested by the Finance Authority, submit evidence satisfactory to the Finance Authority demonstrating that the Participant's rates and charges are at a level adequate to produce and maintain sufficient net revenue after providing for the proper Operation and Maintenance of the Drinking Water System, on a proforma basis consistent with SRF Policy Guidelines, to provide 1.25x coverage on all obligations of the Drinking Water System (including the Bonds) and, in the event the Participant's rates and charges are insufficient to demonstrate such coverage, then to the extent permitted by law annually enact an increase in its rates and charges reasonably designed to be consistent with SRF Policy Guidelines regarding such coverage.

Section 3.03. Representations and Warranties of the Participant. After due investigation and inquiry, the Participant hereby represents and warrants to the Finance Authority that:

(a) The Participant is duly organized and existing under state law, and constitutes a "political subdivision" within the meaning of I.C. 5-1.2-2-57 and a "participant" within the meaning of I.C. 5-1.2-2-54. The Project and the Drinking Water System are subject to I.C. 8-1.5.

(b) The Participant and its Drinking Water System are subject to the jurisdiction of the Commission under I.C. 8-1-2 or any other applicable law and the Project and the

Bonds are subject to the Commission's review and approval requirements. If the Participant or its Drinking Water System is subject to the jurisdiction of the Commission under I.C. 8-1-2 or any other applicable law, the Commission has reviewed and approved the Project and the issuance of the Bonds and no additional approvals or consents are required to be obtained from the Commission related thereto.

(c) The Participant has full power and authority to adopt the Authorizing Instrument, enter into this Agreement and issue the Bonds and perform its obligations hereunder and thereunder.

(d) By all required action, the Participant has duly adopted the Authorizing Instrument and authorized the execution and delivery of this Agreement, the Bonds and all other papers delivered in connection herewith.

(e) Neither the execution of, nor the consummation of the transaction contemplated by, this Agreement nor the compliance with the terms and conditions of any other paper referred to herein, shall conflict with, result in a breach of or constitute a default under, any indenture, mortgage, lease, agreement or instrument to which the Participant is a party or by which the Participant or its property, including the Drinking Water System, is bound or any law, regulation, order, writ, injunction or decree of any court or governmental agency or instrumentality having jurisdiction.

(f) There is no litigation pending or, to the knowledge of the Participant, upon investigation, threatened that (1) challenges or questions the validity or binding effect of this Agreement, the Authorizing Instrument or the Bonds or the authority or ability of the Participant to execute and deliver this Agreement or the Bonds and perform its obligations hereunder or thereunder or (2) would, if adversely determined, have a significant adverse effect on the ability of the Participant to meet its obligations under this Agreement, the Authorizing Instrument or the Bonds.

(g) The Participant has not at any time failed to pay when due interest or principal on, and it is not now in default under, any warrant or other evidence of obligation or indebtedness of the Participant.

(h) All information furnished by the Participant to the Finance Authority or any of the persons representing the Finance Authority in connection with the Loan or the Project is accurate and complete in all material respects including compliance with the obligations, requirements and undertakings imposed upon the Participant pursuant to this Agreement.

(i) The Participant has taken or will take all proceedings required by law to enable it to issue and sell the Bonds as contemplated by this Agreement.

(j) For any outstanding bonds payable from the revenues of the Drinking Water System which are on a parity with the Bonds, each Credit Provider, if any, that has provided a Credit Instrument is at least rated on a long term basis "A-/A3" long term by

Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies and Moody's Investors Service, Inc., and their successors, except as represented and set forth in Exhibit C attached thereto (and with respect to which true, accurate and complete copies of each such Credit Instrument have been delivered to the Finance Authority).

[[(k) The portion of the Loan evidenced by the Series B Bonds is not more than the amount reasonably determined by the Participant to constitute the cost of that portion of the Project, together with related installation costs and a reasonable and proportionate share of Planning and Design costs related to such portion of the Project.]]

Each of the foregoing representations and warranties will be deemed to have been made by the Participant as of the date of this Agreement and as of the date of any disbursement of Loan proceeds (including from the Construction Fund). Each of the foregoing representations and warranties shall survive the Loan disbursements regardless of any investigation or investigations the Finance Authority may have undertaken.

Section 3.04. Covenants Regarding Assignment. The Participant acknowledges that the Finance Authority may pledge, sell or assign the Bonds or cause the Bonds to be pledged, sold or assigned, and certain of its rights related thereto, as permitted pursuant to Section 5.02 herein. The Participant covenants and agrees to cooperate with and assist in, at its expense, any such assignment. Within 30 days following a request by the Finance Authority, the Participant covenants and agrees with the Finance Authority that the Participant will, at its expense, furnish any information, financial or otherwise, with respect to the Participant, this Agreement, the Authorizing Instrument and the Bonds and the Drinking Water System as the Finance Authority reasonably requests in writing to facilitate the sale or assignment of the Bonds.

Section 3.05. Nature of Information. All information furnished by the Participant to the Finance Authority or any person representing the Finance Authority in connection with the Loan or the Project may be furnished to any other person the Finance Authority, in its judgment, deems necessary or desirable in its operation and administration of the Drinking Water SRF Program.

Section 3.06. Tax Covenants. The Participant hereby covenants that it will not take, or cause or permit to be taken by it or by any party under its control, or fail to take or cause to permit to be taken by it or by any party under its control, any action that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the Bonds pursuant to Section 103 of the Code. The Participant further covenants that it will not do any act or thing that would cause the Bonds to be "private activity bonds" within the meaning of Section 141 of the Code or "arbitrage bonds" within the meaning of Section 148 of the Code. In furtherance and not in limitation of the foregoing, the Participant shall take all action necessary and appropriate to comply with the arbitrage rebate requirements under Section 148 of the Code to the extent applicable to the Participant or the Bonds, including accounting for and making provision for the payment of any and all amounts that may be required to be paid to the United States of America from time to time pursuant to Section 148 of the Code.

Section 3.07. Non-Discrimination Covenant. Pursuant to and with the force and effect set forth in I.C. 22-9-1-10, the Participant hereby covenants that the Participant, and its contractor and subcontractor for the Project, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to the hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry.

(End of Article III)

ARTICLE IV - DEFAULTS

Section 4.01. Remedies. The Finance Authority's obligation to make a disbursement under the Loan to the Participant hereunder may be terminated at the option of the Finance Authority, without giving any prior notice to the Participant, in the event: (a) the Participant fails to undertake or perform in a timely manner any of its agreements, covenants, terms or conditions set forth herein or in any paper entered into or delivered in connection herewith (including the Authorizing Instrument); or (b) any representation or warranty made by the Participant as set forth herein or in any paper entered into or delivered in connection herewith is materially false or misleading. Any such event shall constitute an event of default and in addition to any other remedies at law or in equity, the Finance Authority may (x) require a Loan Reduction Payment pursuant to Section 2.06 herein as if it were a date that was three (3) years after the dated date of the Bonds, (y) in the event a Deposit Agreement has not previously been entered into related to the Participant's Bond Fund (including any related reserve), require the Participant to enter into a Deposit Agreement (or to modify any such previously entered Deposit Agreement) and the Participant shall enter into (or modify) such an agreement within 5 days after any such demand and (z) without giving any prior notice, declare the entire outstanding principal amount of the Loan, together with accrued interest thereon, immediately due and payable.

Section 4.02. Effect of Default. Failure on the part of the Finance Authority in any instance or under any circumstance to observe or perform fully any obligation assumed by or imposed upon the Finance Authority by this Agreement or by law shall not make the Finance Authority liable in damages to the Participant or relieve the Participant from paying any Bond or fully performing any other obligation required of it under this Agreement or the Authorizing Instrument; provided, however, that the Participant may have and pursue any and all other remedies provided by law for compelling performance by the Finance Authority of such obligation assumed by or imposed upon the Finance Authority. The obligations of the Finance Authority hereunder do not create a debt or a liability of the Finance Authority or the State under the constitution of the State or a pledge of the faith or credit of the Finance Authority or the State and do not directly, indirectly or contingently, obligate the Finance Authority or the State to levy any form of taxation for the payment thereof or to make any appropriation for their payment. Neither the Finance Authority or the State, nor any agent, attorney, member or employee of the Finance Authority or the State shall in any event be liable for damages, if any, for the nonperformance of any obligation or agreement of any kind whatsoever set forth in this Agreement.

Section 4.03. Defaults under other Financial Assistance Agreements. The Participant and the Finance Authority agree that any event of default occurring under any of the Prior Agreements shall constitute an event of default under this Agreement. Similarly, the Participant and the Finance Authority agree that any event of default under this Agreement, or under any subsequent financial assistance agreement entered into between the Participant and the Finance Authority, shall constitute an event of default under the Prior Agreements and the subsequent financial assistance agreement, if any, as the case may be.

(End of Article IV)

ARTICLE V

MISCELLANEOUS

Section 5.01. Citations. Any reference to a part, provision, section or other reference description of a federal or State statute, rule or regulation contained herein shall include any amendments, replacements or supplements to such statutes, rules or regulation as may be made effective from time to time. Any reference to a Loan disbursement shall include any disbursement from the Construction Fund. Any use of the term “including” herein shall not be a limitation as to any provision herein contained but shall mean and include, without limitation, the specific matters so referenced.

Section 5.02. Assignment. Neither this Agreement, nor the Loan or the proceeds thereof may be assigned by the Participant without the prior written consent of the Finance Authority and any attempt at such an assignment without such consent shall be void. The Finance Authority may at its option sell or assign all or a portion of its rights and obligations under this Agreement, the Authorizing Instrument, and the Bonds to an agency of the State or to a separate body corporate and politic of the State or to a trustee under trust instrument to which the Finance Authority, the State or any assignee is a beneficiary or party. The Finance Authority may at its option pledge or assign all or a portion of its rights under this Agreement, the Authorizing Instrument, and the Bonds to any person. The Participant hereby consents to any such pledge or assignment by the Finance Authority. This Agreement shall be binding upon and inure to the benefit of any permitted secured party, successor and assign.

Section 5.03. No Waiver. Neither the failure of the Finance Authority nor the delay of the Finance Authority to exercise any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other further exercise of any other right, power or privilege.

Section 5.04. Modifications. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto. The Participant understands that the Finance Authority, pursuant to Public Law 235-2005, by operation of law and effective May 15, 2005, has become the successor to the State and the Bond Bank, and agrees to such as if the Prior Agreements (and the Authorizing Instrument and the Bonds referenced in such Prior Agreement and all other collateral agreements and understandings thereto), were amended and restated contemporaneously herewith to such force and effect.

Section 5.05. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and there are no promises, agreements, conditions, undertakings, warranties and representations, either written or oral, expressed or implied between the parties hereto other than as herein set forth or as may be made in the Authorizing Instrument and the other papers delivered in connection herewith. In the event there is a conflict between the terms of this Agreement and the Authorizing Instrument, the terms of this Agreement shall control. It is expressly understood and agreed that except as otherwise provided herein this Agreement represents an integration of any and all prior and contemporaneous promises, agreements,

conditions, undertakings, warranties and representations between the parties hereto. This Agreement shall not be deemed to be a merger or integration of the existing terms under the Prior Agreements except as expressly set forth in Section 4.03 herein.

Section 5.06. Execution of Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be executed by the Finance Authority and the Participant, and all of which shall be regarded for all purposes as one original and shall constitute one and the same instrument.

Section 5.07. Severability of Invalid Provisions. If any one or more of the covenants or agreements provided in this Agreement on the part of the Finance Authority or the Participant to be performed shall be deemed by a court of competent jurisdiction to be contrary to law or cause the Bonds to be invalid as determined by a court of competent jurisdiction, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements and waived and shall in no way affect the validity of the other provisions of this Agreement.

Section 5.08. Notices. All notices hereunder shall be sufficiently given for all purposes hereunder if in writing and delivered personally or sent or transmitted to the appropriate destination as set forth below in the manner provided for herein. Notice to the Finance Authority shall be addressed to:

Indiana Finance Authority
SRF Programs
100 North Senate, Room 1275
Indianapolis, Indiana 46204
Attention: Director of Environmental Programs

or at such other address(es) or number(s) and to the attention of such other person(s) as the Finance Authority may designate by notice to the Participant. Notices to the Participant shall be addressed to:

City of Fort Wayne
One Main St., #900
Fort Wayne, IN 46802
Attention: Controller

or at such other address(es) or number(s) and to the attention of such other person(s) as the Participant may designate by notice to the Finance Authority. Any notice hereunder shall be deemed to have been served or given as of (a) the date such notice is personally delivered, (b) three (3) Business Days after it is mailed U.S. mail, First Class postage prepaid, (c) one (1) Business Day after it is sent on such terms by Federal Express or similar next-day courier, or (d) the same day as it is sent by facsimile transmission with telephonic confirmation of receipt by the person to whom it is sent.

Section 5.09. Expenses. The Participant covenants and agrees to pay (a) the fees, costs and expenses in connection with making the Loan, including issuing the Bonds and providing the necessary certificates, documents and opinions required to be delivered therewith; (b) the fees, costs and expenses in connection with making and administering the Loan; (c) the costs and expenses of complying with its covenants made herein; and (d) any and all costs and expenses, including attorneys' fees, incurred by the Finance Authority in connection with the enforcement of this Agreement, the Authorizing Instrument and the Bonds in the event of the breach by the Participant of or a default under this Agreement, the Authorizing Instrument or the Bonds. Notwithstanding clause (b) above, the Participant shall not be obligated to pay any of the fees, costs and expenses in connection with administering the Loan except as follows: (1) the Finance Authority may request and the Participant shall promptly pay (no later than the date first above written), a closing fee in connection with the Loan in an amount determined by the Finance Authority, but not exceeding \$1,000, which may not be paid from a Loan disbursement; (2) the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), an annual administrative fee in connection with the Loan in an amount determined by the Finance Authority, but not exceeding \$1,000, which may not be paid from a Loan disbursement; (3) the Finance Authority may request and the Participant shall promptly pay (no later than ten (10) days after any request), any Settlement Fee; (4) the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), a Non-Use Fee in connection with the Loan, which may not be paid from a Loan disbursement; (5) for so long as the Finance Authority is the registered owner of the Bonds, at the direction of the Finance Authority, the interest rate on the Bonds may be adjusted to lower the interest rate on the Bonds, and the difference between the amount payable as the original rate on the Bonds and the lower rate shall be deemed an additional administrative fee in connection with the Drinking Water SRF Program; and (6) the Participant shall only be obligated to pay fees, costs and expenses of the Finance Authority's counsel and financial advisers in connection with making the Loan up to \$10,000, which may be paid from a Loan disbursement.

Section 5.10. Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana.

Section 5.11. Term. This Agreement shall terminate at such time as the Participant has fully met and discharged all of its obligations hereunder, which term may extend beyond the final payment of the Bonds or provision for the payment of the Bonds pursuant to the Authorizing Instrument.

Section 5.12. Non-Collusion. The undersigned attests, subject to the penalties of perjury, that he/she is an authorized officer or representative of the Participant, that he/she has not, nor has any other officer or representative of the Participant, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive pay, and that the undersigned has not received or paid any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of the agreement or is a payment to lawyers, accountants and engineers by the Participant related to customary services rendered in connection with the Loan.

Section 5.13. Federal Award Information. The Catalogue of Federal Domestic Assistance (“CFDA”) Number for the Authority’s Drinking Water SRF Program is 66.468 and the Federal Agency & Program Name is “US Environmental Protection Agency Capitalization Grant for Drinking Water State Revolving Funds.”

(End of Article V)

[THE REMAINDER OF THIS PAGE HAS
BEEN INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or officials, all as of the date first above written.

CITY OF FORT WAYNE, INDIANA

INDIANA FINANCE AUTHORITY

“Participant”

“Finance Authority”

By: _____

By: _____

James P. McGoff

Director of Environmental Programs

Attested by Finance Authority Staff:

Attest: _____

By: _____

EXHIBIT A

The Project includes constructing infrastructure improvements as further described as follows:

**{This information will be from the description in the
Preliminary Engineering Report and provided by
the Finance Authority prior to Closing.}**

[The Project contains components that are GPR Projects, which GPR Projects Expenditures have been determined and are expected as of the date of this Agreement to be in the amount as set forth in the Participant's business case or categorical exclusion which is posted at www.srf.in.gov.]

The Project is more fully described in, and shall be in accordance with, the Preliminary Engineering Report and the Plans and Specifications approved by the Finance Authority (or if designated by the Finance Authority, the Department).

[End of Exhibit A]

EXHIBIT B-1
Principal Payment Schedule for Series A Bonds

<u>Date</u>	<u>Principal Amount</u>
12/1/2019	
12/1/2020	
12/1/2021	
12/1/2022	
12/1/2023	
12/1/2024	
12/1/2025	
12/1/2026	
12/1/2027	
12/1/2028	
12/1/2029	
12/1/2030	
12/1/2031	
12/1/2032	
6/1/2033	
12/1/2033	
6/1/2034	
12/1/2034	
6/1/2035	
12/1/2035	
6/1/2036	
12/1/2036	
6/1/2037	
12/1/2037	
6/1/2038	
12/1/2038	
6/1/2039	
12/1/2039	
6/1/2040	
12/1/2040	
Total	

[End of Exhibit B-1]

EXHIBIT B-2
Principal Payment Schedule for Series B Bonds

<u>Date</u>	<u>Principal Amount</u>	<u>Date</u>	<u>Principal Amount</u>
12/1/2019		6/1/2041	
12/1/2020		12/1/2041	
12/1/2021		6/1/2042	
12/1/2022		12/1/2042	
12/1/2023		6/1/2043	
12/1/2024		12/1/2043	
12/1/2025		6/1/2044	
12/1/2026		12/1/2044	
12/1/2027		6/1/2045	
12/1/2028		12/1/2045	
12/1/2029		6/1/2046	
12/1/2030		12/1/2046	
12/1/2031		6/1/2047	
12/1/2032		12/1/2047	
6/1/2033		6/1/2048	
12/1/2033		12/1/2048	
6/1/2034		6/1/2049	
12/1/2034		12/1/2049	
6/1/2035		6/1/2050	
12/1/2035		12/1/2050	
6/1/2036		6/1/2051	
12/1/2036		12/1/2051	
6/1/2037		6/1/2052	
12/1/2037		12/1/2052	
6/1/2038		6/1/2053	
12/1/2038		6/1/2053	
6/1/2039		12/1/2054	
12/1/2039		6/1/2054	
6/1/2040			
12/1/2040			
Total			

[End of Exhibit B-2]

EXHIBIT C
Credit Instrument

Credit Providers rated on a long term basis lower than "A-/A3" long term by Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies and Moody's Investors Service, Inc. are:

- None.

[End of Exhibit C]

Exhibit D
Additional Terms

A. The following additional terms in this Paragraph A are [NOT] applicable to the Loan:

“Equivalency Project” shall mean a project designated by the Finance Authority as an “equivalency project” under the Safe Drinking Water Act related to the “US Environmental Protection Agency Capitalization Grant for Drinking Water State Revolving Funds” for the federal fiscal year ending September 30, 2018 (or such later federal fiscal year as the Finance Authority may otherwise designate).

The Participant understands and acknowledges that the Project has been designated as an Equivalency Project and is required to meet the related applicable requirements of the Safe Drinking Water Act.

B. The following additional terms in this Paragraph B related to GPR Projects (and the related defined terms) are [NOT] applicable to the Loan.

“GPR Projects” shall mean Project components that meet the requirement of the “Green Project Reserve (GPR) Sustainability Incentive Program” consistent with SRF Policy Guidelines including applicable requirements of the Drinking Water SRF Act.

“GPR Projects Adjustment Fee” shall mean an amount which would equal the gross additional interest that would have accrued on the Bonds from the date of this Agreement through their scheduled final maturity, had such Bonds been issued at an interest rate determined under the Drinking Water SRF Program’s interest rate policies and practices using the final, actual GPR Projects Expenditures (rather than the amount referenced in the Participant’s business case or categorical exclusion posted at www.srf.in.gov), all as determined by the Finance Authority.

“GPR Projects Expenditures” shall mean those costs and expenses incurred by the Participant that are part of the Project which are GPR Projects in nature (within the meaning of the Drinking Water SRF Act) as determined by the Finance Authority, in order for the Bonds to receive special interest rate treatment under the Drinking Water SRF Program’s interest rate policies and practices.

The Participant understands and acknowledges that a special interest rate has been applied to the Bonds as a result of a portion of the Project having been identified by the Participant as being a GPR Projects project. In the event GPR Projects Expenditures are hereafter determined by the Finance Authority to be less than the amount referenced in the Participant’s business case or categorical exclusion, then the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), a GPR Projects Adjustment Fee in connection with the Loan. Within ninety (90) days following Substantial Completion of Construction, the Participant shall certify to the Finance Authority those Loan disbursements it represents to be its GPR Projects Expenditures. The Participant understands and acknowledges that it is required to submit a

business case or categorical exclusion documenting GPR Projects prior to loan closing or if a request is made pursuant to Section 3.02(f) of this Agreement.

[End of Exhibit D]