

INTRODUCED BY: MISSY MOSBY

COMMITTEE: FINANCE

ORDINANCE NO. F-2016-32

An Ordinance authorizing the issuance of sewage works revenue bonds of the City of Evansville, Indiana, and issuance of notes in anticipation of the issuance of bonds; prescribing the form and other details of the bonds; providing for the collection and disposition of the revenues to be derived from its sewerage system; making other provisions with respect to the operation of the system and the issuance and sale of the bonds and notes; and providing for the security and payment of the bonds and notes; other matters connected therewith, and repealing ordinances inconsistent herewith.

WHEREAS, the City of Evansville, Indiana (“City”) now owns and operates a municipal sewage works system (“System”) pursuant to IC 36-9-23; and

WHEREAS, the City provides sewage collection and disposal service in the City, imposes charges for such service, and accounts for the income from and expenses of such service as revenues and expenses of the System, respectively; and

WHEREAS, the City’s Sewage Works Revenue Bonds of 2004, Series A, dated April 26, 2007 (“2004 Replacement Bonds”), are now outstanding in the principal amount of Four Million One Hundred Forty-Four Thousand Dollars (\$4,144,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2004 Replacement Bonds are payable from the Net Revenues of the System, and were issued to the State of Indiana Wastewater Revolving Loan Fund (now operated by the Indiana Finance Authority (“Authority”))

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CITY CLERK

through its wastewater loan program established and existing pursuant to IC 4-4-11 and IC 13-18-13 (“SRF Program”)); and

WHEREAS, the City’s Sewage Works Revenue Bonds of 2007, Series A, dated April 10, 2007 (“2007 Bonds”), are now outstanding in the principal amount of Twenty-One Million Four Hundred Twenty-Eight Thousand Dollars (\$21,428,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2007 Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, and were issued to the Authority through its SRF Program; and

WHEREAS, the City’s Sewage Works Revenue Bonds of 2008, Series B, dated October 3, 2008 (“2008 Bonds”), are now outstanding in the principal amount of Twelve Million Four Hundred Eighty-Eight Thousand Dollars (\$12,488,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2008 Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds and the 2007 Bonds, and were issued to the Authority as part of its SRF Program; and

WHEREAS, the City’s Sewage Works Revenue Bonds, Series 2009, dated October 19, 2009 (“2009 Bonds”) are now outstanding in the principal amount of Twenty-Seven Million Seven Hundred Twenty-Five Thousand Four Hundred Ninety-Seven Dollars and Eighty-One Cents (\$27,725,497.81), having been issued by the City for the purpose of constructing, improving and extending the System, which 2009 Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, and the 2008 Bonds; and

WHEREAS, the City’s Sewage Works Revenue Bonds, Series 2010A, dated June 30, 2010 (the “2010A Bonds”) are now outstanding in the principal amount of Seven Million One

Hundred Fifteen Thousand Dollars (\$7,115,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2010 Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, and the 2009 Bonds, and were issued to the Authority as part of its SRF Program; and

WHEREAS, the City's Sewage Works Revenue Bonds, Series 2010B-1, dated December 1, 2010 (the "2010B-1 Bonds") are now outstanding in the principal amount of Twenty-Four Million Eight Hundred Seventy Thousand Dollars (\$24,870,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2010B-1 Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds and the 2010A Bonds; and

WHEREAS, the City's Sewage Works Revenue Bonds, Series 2011C, dated June 9, 2011 (the "2011C Bonds") are now outstanding in the principal amount of Three Million Eighty-Four Thousand Dollars (\$3,084,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2011C Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, and the 2010B-1 Bonds, and were issued to the Authority as part of its SRF Program; and

WHEREAS, the City's Sewage Works Revenue Bonds, Series 2011D, dated October 26, 2011 (the "2011D Bonds") are now outstanding in the principal amount of One Million Two Hundred Eleven Thousand Dollars (\$1,211,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2011D Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, the

2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, and the 2011C Bonds, and were issued to the Authority as part of its SRF Program; and

WHEREAS, the City's Sewage Works Revenue Bonds, Series 2012E, dated April 26, 2012 (the "2012E Bonds") are now outstanding in the principal amount of Five Million Nine Hundred Seventy-One Thousand Dollars (\$5,971,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2012E Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2011C Bonds and the 2011D Bonds, and were issued to the Authority as part of its SRF Program; and

WHEREAS, the City's Sewage Works Refunding Revenue Bonds, Series 2013A, dated May 2, 2013 (the "2013A Refunding Bonds"), are now outstanding in the principal amount of Twenty-Two Million Seven Hundred Eighty Thousand Dollars (\$22,780,000), having been issued by the City for the purpose of refunding the City's Sewage Works Revenue Bonds of 1998, Series C, and the City's Sewage Works Refunding Revenue Bonds of 2003, Series A, which 2013 Refunding Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2011C Bonds, the 2011D Bonds and the 2012E Bonds; and

WHEREAS, the City's Sewage Works Revenue Bonds, Series 2013B, dated November 26, 2013 (the "2013B Bonds"), are now outstanding in the principal amount of Twenty-Eight Million Eight Hundred Ninety Thousand Dollars (\$28,890,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2013B Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the

2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2011C Bonds, the 2011D Bonds, the 2012E Bonds and the 2013A Refunding Bonds; and

WHEREAS, the City's Sewage Works Revenue Bonds, Series 2014A, dated January 31, 2014 (the "2014A Bonds"), are now outstanding in the principal amount of Seven Million One Hundred Twenty Thousand Dollars (\$7,120,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2014A Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2011C Bonds, the 2011D Bonds, the 2012E Bonds, the 2013A Refunding Bonds and the 2013B Bonds, and were issued to the Authority as part of its SRF Program; and

WHEREAS, the City's Sewage Works Revenue Bonds, Series 2014B, dated June 13, 2014 (the "2014B Bonds"), are now outstanding in the principal amount of Five Million Two Hundred Ninety-One Thousand Dollars (\$5,291,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2014B Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2011C Bonds, the 2011D Bonds, the 2012E Bonds and the 2013A Refunding Bonds, the 2013B Bonds and the 2014A Bonds, and were issued to the Authority as part of its SRF Program; and

WHEREAS, the City's Sewage Works Revenue Bonds, Series 2014C, dated August 21, 2014 (the "2014C Bonds"), are now outstanding in the principal amount of Twenty Four Million Two Hundred Ninety Thousand Dollars (\$24,290,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2014C Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007

Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2011C Bonds, the 2011D Bonds, the 2012E Bonds and the 2013A Refunding Bonds, the 2013B Bonds, the 2014A Bonds and the 2014B Bonds; and

WHEREAS, the City's Sewage Works Revenue Bonds, Series 2014D, dated December 15, 2014 (the "2014D Bonds"), are now outstanding in the principal amount of Thirty-Three Million Nine Hundred Fifty-Seven Thousand Dollars (\$33,957,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2014D Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2011C Bonds, the 2011D Bonds, the 2012E Bonds and the 2013A Refunding Bonds, the 2013B Bonds, the 2014A Bonds, the 2014B Bonds and the 2014C Bonds, and were issued to the Authority as part of its SRF Program; and

WHEREAS, the City's Sewage Works Revenue Bonds, Series 2016A, dated July 28, 2016 (the "2016A Bonds" or the "BAM Insured Outstanding Obligations"), are now outstanding in the principal amount of Twenty-Five Million Eight Hundred Fifty-Five Thousand Dollars (\$25,855,000), having been issued by the City for the purpose of constructing, improving and extending the System, which 2016A Bonds are payable from the Net Revenues of the System, on a parity with the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2011C Bonds, the 2011D Bonds, the 2012E Bonds and the 2013A Refunding Bonds, the 2013B Bonds, the 2014A Bonds, the 2014B Bonds, the 2014C Bonds and the 2014D Bonds; and

WHEREAS, the Common Council of the City ("Common Council") now finds that certain improvements, additions and extensions to the System are necessary; that plans,

specifications and estimates have been prepared and filed by the engineers employed by the City for the construction of said improvements and extensions (including without limitation those set forth in the Financial Assistance Agreement with the Authority as part of its SRF Program, pertaining to all or a portion of the Project and the financing thereof (“Financial Assistance Agreement”), and any amendment thereto, attached hereto and made a part hereof, and in Exhibit A attached hereto) (“Project”), which plans and specifications have been approved by the Common Council and have been submitted to all governmental authorities having jurisdiction, including, particularly, the Indiana Department of Environmental Management (“Department”), and have been approved by the aforesaid governmental authorities and are incorporated herein by reference and are open for inspection at the office of the water and sewer utility department as required by law; and

WHEREAS, the City has obtained engineers’ estimates of the costs for the construction of the Project and will advertise for and receive bids for the construction of the Project which bids will be subject to the City’s obtaining funds to pay for the Project; that on the basis of these engineers’ estimates, the cost of the Project, including funding a debt service reserve, incidental expenses and costs of issuance are in the approximate amount of One Hundred Fifty-Five Million Dollars (\$155,000,000) (collectively, “Costs of the Project”); and

WHEREAS, the City has no funds on hand available for application to the Costs of the Project, and therefore, such Costs of the Project shall be financed by the issuance of sewage works revenue bonds, in one or more series (which series may consist of one or more series of tax-exempt bonds or taxable bonds, as described below) in an aggregate principal amount not to exceed One Hundred Fifty-Five Million Dollars (\$155,000,000) and, if necessary, bond anticipation notes, in one or more series (“BANs”); and

WHEREAS, the ordinances authorizing the issuance of the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2011C Bonds, the 2011D Bonds, the 2012E Bonds, the 2013A Refunding Bonds, the 2013B Bonds, the 2014A Bonds, the 2014B Bonds, the 2014C Bonds, the 2014D Bonds and the 2016A Bonds (collectively, "Existing Ordinances") permit the issuance of additional bonds ranking on a parity with the outstanding 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2011C Bonds, the 2011D Bonds, the 2012E Bonds, the 2013A Refunding Bonds, the 2013B Bonds, the 2014A Bonds, the 2014B Bonds, the 2014C Bonds, the 2014D Bonds and the 2016A Bonds (collectively, "Outstanding Bonds") provided certain conditions can be met, and the City finds that the finances of the System will enable the City to meet the conditions for the issuance of additional parity bonds, and that, accordingly, the bonds authorized herein shall rank on a parity with the Outstanding Bonds; and

WHEREAS, no further revenues bonds are to be issued under the Existing Ordinances notwithstanding that the aggregate principal amount of the Outstanding Bonds issued thereunder being less than the aggregate principal amount of revenue bonds authorized thereunder other than the City may hereafter issue additional revenue bonds under the Existing Ordinance adopted on December 9, 2013 (Ordinance No. F-2013-22) in an aggregate principal amount of not more than \$12,715,000, subject to the requirements of Ordinance No. F-2013-22, which additional revenue bonds thereunder would be in addition to the Bonds issued pursuant to this Ordinance; and

WHEREAS, the bonds issued under this ordinance will constitute a first charge against the Net Revenues of the System, on a parity with the Outstanding Bonds, and are to be issued subject to the provisions of the laws of the State of Indiana, including, without limitation IC 36-

9-23, as in effect on the date of delivery of the bonds ("Act"), and the terms and restrictions of this ordinance; and

WHEREAS, the City desires to authorize the issuance of BANs hereunder, in one or more series, if necessary, payable solely from the proceeds of the sewage works revenue bonds issued to finance the aforementioned Costs of the Project and to authorize the refunding of the BANs, if issued; and

WHEREAS, the Common Council has been advised that the purchase of a reserve fund surety policy may be cost efficient; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF EVANSVILLE, INDIANA, AS FOLLOWS:

Section 1. Project Authorization. (a) The bonds authorized by this ordinance shall be issued pursuant to the Act and other applicable provisions of law. The BANs authorized by this ordinance shall be issued pursuant to the Act and other applicable provisions of law.

(b) The City shall proceed with the construction of the Project in accordance with the plans and specifications prepared and filed by the consulting engineers employed by the City, which plans and specifications are by reference made a part of this ordinance as fully as if the same were attached to and incorporated herein and two copies of which are now on file or shall be placed on file in the office of the water and sewer utility department of the City and are open for public inspection pursuant to IC 36-1-5-4. The total Costs of the Project shall not exceed the sum of One Hundred Fifty-Five Million Dollars (\$155,000,000), plus investment earnings on the

BAN and bond proceeds, without further authorization from this Common Council. The terms “System,” “sewage treatment works,” “works,” and other like terms where used in this ordinance shall be construed to mean the Treatment Works, as defined in the Financial Assistance Agreement entered into between the City and the Authority, and includes all structures and property of the City’s sewer utility, including the Project and the items defined in IC 36-9-1-8 and all extensions, additions and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired. The Project shall be constructed in accordance with the plans and specifications heretofore mentioned, which plans and specifications are hereby approved. The Project shall be constructed and the BANs and bonds herein authorized shall be issued pursuant to and in accordance with the Act.

Section 2. Definitions. The following terms shall have the following meanings in this ordinance unless the context expressly or by necessary implication requires otherwise:

“Authority” shall mean the Indiana Finance Authority;

“BANs” shall mean the [Taxable] Sewage Works Bond Anticipation Notes of the year in which the BANs are issued, and with the appropriate series designation, if any, of the City authorized to be issued by this ordinance;

“Bonds” shall mean the Sewage Works Revenue Bonds of the year in which the Bonds are issued, and with the appropriate series designation, if any, of the City, authorized to be issued by this ordinance;

“Current Expenses” shall mean expenses incurred by the City under the Act in the operation of the System determined in accordance with generally accepted accounting principles, including expenses of providing refuse collection and disposal service, but shall exclude interest, depreciation, amortization and payments in lieu of taxes;

“Fiscal Year” shall mean the twelve month period beginning on January 1 of each year and ending on the last day of December next succeeding, or such other annual fiscal period as the City may hereafter adopt;

“Gross Revenues” shall mean all revenues and income of the City derived from the operation of the System as permitted by the Act, including tapping privileges and fees reported as contributions in aid of construction; including revenues derived from providing refuse collection and disposal service; proceeds from the sale of property; proceeds of insurance and condemnation awards and compensation for damages, to the extent not applied to the payment of the cost of repairs, replacements and improvements; and all amounts realized from the investment of money in the accounts and funds continued or created by this ordinance; but excluding any amount received under an industrial cost recovery system pursuant to the Federal Water Pollution Control Act or similar legislation and which is required to be returned to a governmental body or to be reserved by the City for a purpose inconsistent with its application under subsections (a), (b), (c) or (d) of Section 14; the term “Gross Revenues” shall also include payments received by the City in connection with the issuance by the City of sewage works revenue bonds issued as Build America Bonds pursuant to the authority of the American Recovery and Reinvestment Act of 2009 (the “ARRA”);

“Net Revenues” shall mean Gross Revenues after deduction of Current Expenses;

“Original Purchaser” shall mean the purchaser of the Bonds pursuant to the provisions of Section 11;

“Parity Bonds” shall mean bonds issued on a parity with the Outstanding Bonds and the Bonds in accordance with the provisions of Section 17;

“Paying Agent” shall mean the paying agent selected pursuant to Section 6;

“Qualified Investments” shall mean, only to the extent permitted by Indiana law,

(A) investments for all purposes, including defeasance investments in refunding escrow accounts:

(1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in paragraph (A)(2) below), or

(2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America.

(B) investments for all purposes, other than defeasance investments in refunding escrow accounts:

(1) Obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America;

(a) Farmers Home Administration

(b) General Services Administration

(c) U.S. Maritime Administration

(d) Small Business Administration

(e) Government National Mortgage Association

(f) U.S. Department of Housing and Urban Development

(g) Federal Housing Administration

(h) Export-Import Bank

(i) Farm Credit System Financial Assistance Corporation

(2) Senior Debt Obligations rated "AAA" by Standard & Poor's Corporation and "Aaa" by Moody's Investors Services issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

(3) U.S. Dollar denominated deposit accounts, federal funds and banker's acceptances with commercial banks (foreign or domestic) which have a rating on their

short-term certificates of deposit on the date of purchase of “A-1” or “A-1+” by Standard & Poor’s and “P-1” by Moody’s and maturing no more than 360 days after the date of purchase;

(4) Commercial paper which is rated at the time of purchase in the single highest classification, “A-1+” by Standard & Poor’s Corporation and “P-1” by Moody’s Investors Services and which matures not more than 270 days after the date of purchase;

(5) Money market funds rated “AAAm” by Standard & Poor’s Corporation and “AAAm-G” or better by Standard & Poor’s Corporation.

(6) Pre-refunded municipal obligations defined as follows: any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (i) which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice, and (ii) (A) which are rated, based on the escrow, in the highest rating category by Moody’s Investor Service, Inc. and Standard & Poor’s Corporation or any successor thereto; or (B)(1) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or obligations described in (a) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (2) which fund is sufficient, as verified by an independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates

specified in the irrevocable instructions referred to in subclause (i) of this paragraph, as appropriate;

The value of the above investments shall be determined as provided in “Value” below.

“Rate Ordinance” shall mean Title 13 of the Municipal Code of Evansville, as last amended by Ordinance No. F-2016-31, establishing sewer rates and charges;

“Registrar” shall mean the registrar selected pursuant to Section 6;

“System” shall mean the entire sewerage system of the City and all System properties of every nature hereafter owned by the City while any of the Outstanding Bonds or the Bonds remain outstanding, including all property and facilities used in providing refuse collection and disposal service, including all real and personal property of every nature comprising part of or used or useful in connection with such System and including all appurtenances, contracts, leases, franchises and other intangibles; and

“Value” as of any particular time of determination, means that the value of any investments shall be calculated as follows:

(a) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(b) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service; and

(c) As to certificates of deposit and banker's acceptances: the face amount thereof, plus accrued interest.

Section 3. Authorization and Terms of BANs. The City shall issue, if necessary, its BANs for the purpose of procuring interim financing to apply to the Costs of the Project. The City may issue its BANs, in one or more series, in an aggregate amount not to exceed One Hundred Fifty-Five Million Dollars (\$155,000,000) to be designated "[Taxable] Sewage Works Bond Anticipation Notes of _____" (to be completed with the year in which issued and appropriate series designation, if any). Each series of BANs shall be sold at a price not less than one hundred percent (100%) of their par value if sold to the Authority as part of its SRF Program, or ninety-nine percent (99.0%) of their par value if sold to any other purchaser, shall be numbered consecutively from 1 upward, shall be in multiples of One Dollar (\$1) if sold to the Authority as part of its SRF Program, or denominations of One Thousand Dollars (\$1,000) if sold to any other purchaser, as designated in the hereinafter defined Purchase Agreement, shall be dated as of the date of delivery, and shall bear interest at a rate not to exceed four percent (4.0%) per annum (the exact rate or rates to be negotiated with the purchaser of the BANs) payable upon maturity or upon prepayment prior to maturity. Each series of BANs will mature no later than five years after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed four percent (4.0%) per annum (the exact rate or rates to be negotiated with the purchaser of the BANs). The term of the BANs and all renewal BANs may not exceed five (5) years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers. Notwithstanding anything in this ordinance to the contrary, any series of BANs issued hereunder may bear interest that is taxable and included in

the gross income of the owners thereof. If any such BANs are issued on a taxable basis, the designated name shall include the term “taxable” as the first word in the designated name.

The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank, pursuant to IC 4-4-11 and IC 13-18-13 if sold to the Authority, or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The principal of and the interest on the BANs shall be payable solely from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act. The Bonds will be payable solely out of and constitute a first charge, on a parity with the Outstanding Bonds, against the Net Revenues of the System.

Section 4. Authorization and Terms of Bonds. (a) For the purpose of procuring funds to pay the Costs of the Project, including the premium for a reserve fund surety policy, if any, funding a debt service reserve, refunding the BANs, if issued, and costs of issuance, the City is hereby authorized to issue the Bonds, in one or more series, in the aggregate principal amount not to exceed One Hundred Fifty-Five Million Dollars (\$155,000,000). The Bonds shall be designated as “[Taxable] Sewage Works Revenue Bonds, Series ___,” to be completed with the year in which issued and the appropriate series designation, if any. Each series of Bonds shall be in fully registered form; shall be in denominations of One Dollar (\$1) or integral multiples thereof if sold to the Authority as part of its SRF Program, or in denominations of Five Thousand Dollars (\$5,000) or integral multiples thereof if sold to any other purchaser; shall be numbered consecutively beginning with number 1; shall be originally dated as of the first day of the month in which sold or issued, or as of the date of delivery, as determined by the Controller with the advice of the City’s financial advisor, provided that if sold to the Authority as part of its SRF Program, the Bonds shall be dated as of their date of delivery. Each series of Bonds shall be sold at a price not less than the par value thereof if sold to the Authority as part of its SRF Program,

or not less than ninety-eight and five-tenths percent (98.5%) of their par value if sold to any other purchaser; and shall mature annually, or shall be subject to mandatory sinking fund redemption, on July 1 of each year through July 1, 2037, and semiannually thereafter. Each series of Bonds shall mature not later than July 1, 2045, or, with respect to any series of Bonds sold to the Authority as part of its SRF Program) over a period ending no later than twenty (20) years after substantial completion of the Project (as determined under the Financial Assistance Agreement for any Bonds sold to the Authority as part of its SRF Program), and in such amounts as will allow the City to meet the coverage and/or amortization requirements of the SRF Program if sold to the Authority as part of its SRF Program. Such debt service schedule for any Bonds sold to the Authority as part of its SRF Program shall be finalized and set forth in the Financial Assistance Agreement. For any Bonds not sold to the Authority as part of its SRF Program, such Bonds may mature in amounts that will produce as level debt service as practicable with Five Thousand Dollar (\$5,000) denominations, taking into account the annual debt service on the Outstanding Bonds and all other series of Bonds issued under this ordinance. Each series of Bonds shall bear interest at a rate or rates not to exceed six percent (6.0%) per annum (the exact rate or rates to be determined by bidding or through negotiation with the Authority as part of its SRF Program). Interest is payable semiannually on January 1 and July 1 in each year, commencing on the first January 1 or the first July 1 following the date of delivery of the Bonds as determined by the Controller with the advice of the City's financial advisor, and as set forth in the Financial Assistance Agreement as to any series of Bonds sold to the Authority as part of its SRF Program, or in the bond sale notice for any series of Bonds which are sold to any other purchaser.

All or a portion of the Bonds may be issued as one or more term bonds, upon election of the successful bidder. Such term bonds shall have a stated maturity or maturities in the years as

determined by the successful bidder, but in no event later than the final serial maturity date of the Bonds as determined in the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at one hundred percent (100%) of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates which are hereafter determined in accordance with the above paragraph.

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

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

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

modification made pursuant to the authorization in this paragraph to the form of Bond otherwise contained herein).

(b) The Controller of the City, following consultation with the City's bond counsel for the Bonds, will also determine whether any series of the Bonds will be issued as bonds the interest on which is included in the gross income of the owners thereof for federal income tax purposes. In such event, the form of bond set forth in Section 10 hereof shall be appropriately revised to reflect such taxable status, and the provisions of this Ordinance that are designed to preserve the Tax Exemption shall not apply to such series of Bonds.

Section 5. Redemption Prior to Maturity. (a) Commencing no sooner than ninety (90) days after their date of issuance, the BANs are prepayable by the City, in whole or in part, at any time upon twenty days' notice to the registered owner of the BANs with no premium.

(b) For any Bonds not sold to the Authority as part of its SRF Program, the Bonds are redeemable at the option of the City, not sooner than July 1, 2027, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City and by lot within a maturity, at face value, together with a premium no greater than one and five-tenths percent (1.5%) plus in each case accrued interest to the date fixed for redemption. The exact redemption features shall be determined by the Controller with the advice of the City's financial advisor and shall be set out in the notice of sale described in Section 11 herein.

For any Bonds sold to the Authority as part of its SRF Program, such Bonds are redeemable at the option of the City, with the consent of the Authority, but no sooner than ten (10) years after their date of delivery, and thereafter on any date, on sixty (60) days' notice, in whole or in part, in inverse order of maturity, and by lot within a maturity, at face value together with a premium no greater than two percent (2%), plus accrued interest to the date fixed for

redemption; provided, however, if the Bonds are sold to the SRF Program and registered in the name of the Authority, the Bond shall not be redeemable at the option of the City unless and until consented to by the Authority. The exact redemption dates and premiums shall be established by the Controller, with the advice of the City's financial advisor, prior to the sale of the Bonds.

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

(d) Each authorized denomination shall be considered a separate bond for purposes of redemption. If less than an entire maturity of a series is called for redemption at one time, the Bonds to be redeemed shall be selected by the Registrar and by lot within a maturity. If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the

same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.

(e) In either case, notice of redemption shall be given not less than sixty (60) days prior to the date fixed for redemption of Bonds sold to the Authority as part of its SRF Program, or not less than thirty (30) days for Bonds sold to any other purchaser, unless such redemption notice is waived by the owner of the Bond or Bonds redeemed. Such notice shall be mailed to the address of the registered owner as shown on the registration record of the City as of the date which is sixty-five (65) days prior to such redemption date for Bonds sold to the Authority as part of its SRF Program; or forty-five (45) days prior to such redemption date for Bonds sold to any other purchaser; provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any such Bond shall not affect the validity of any proceedings for the redemption of other Bonds. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption may be determined by the City.

(f) On and after the redemption date specified in the notice, the BANs or the Bonds, or portions thereof, thus called (provided funds for their redemption are on deposit at the place of payment) shall no longer bear interest, shall no longer be protected by this ordinance and shall not be deemed to be outstanding under the provisions of this ordinance, and the owners shall have the right to receive only the redemption price of the BANs or the Bonds plus accrued interest thereon to the date fixed for redemption.

(g) All BANs or Bonds which have been redeemed shall be cancelled and cremated or otherwise destroyed by the Registrar and shall not be reissued and a counterpart of the certificate of cremation or other destruction evidencing such cremation or other destruction shall

be furnished by the Registrar to the City; provided, however, that one or more new BANs or Bonds shall be issued for the unredeemed portion of any BAN or Bond without charge to the registered owner.

Section 6. Registrar and Paying Agent; Payment of Bonds; Transfer of Bonds; Designation as Book Entry Bonds; Record Dates; Execution; Authentication. (a) The Controller is hereby authorized to contract with a qualified financial institution to serve as Registrar and Paying Agent for the Bonds (“Registrar” or “Paying Agent”). The Registrar is hereby charged with the responsibility of authenticating the Bonds. The Controller is hereby authorized to enter into such agreements or understandings with the Registrar as will enable the institution to perform the services required of a registrar and paying agent. The Controller is further authorized to pay such fees as the Registrar may charge for the services it provides as Registrar and Paying Agent, and such fees may be paid from the Sewerage System Bond Fund continued to pay the principal of and interest on the Bonds and fiscal agency charges.

As to the BANS and as to the Bonds, if any purchaser does not object to such designation, the Controller may serve as Registrar and Paying Agent and is hereby charged with the duties of a Registrar and Paying Agent.

(b) Except as provided below, the principal of the Bonds and the principal and interest on the BANs shall be payable at the principal office of the Paying Agent. Interest on the Bonds sold to the Authority as part of its SRF Program shall be paid from the date or dates specified in the Financial Assistance Agreement. Interest on the Bonds issued to any other purchaser shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the Bonds unless the Bonds are authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest

payment date, in which case they shall bear interest from such interest payment date, or unless the Bonds are authenticated on or before the fifteenth day of the month preceding the first interest payment date, in which case they shall bear interest from the original date until the principal shall be fully paid.

(c) If any Bonds or BANs are sold to the Authority as part of its SRF Program, the principal of and interest thereon shall be paid by wire transfer to such financial institution if and as directed by the Authority on the due date of such payment or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date. So long as the Authority is the owner of the Bonds or BANs, such Bonds and BANs shall be presented for payment as directed by the Authority.

If wire transfer payment is not required, and for any Bonds not sold to the Authority, the principal of the Bonds shall be payable at the principal corporate trust office of the Paying Agent. All payments of interest on the Bonds shall be paid by check, mailed one business day prior to the interest payment date to the registered owners thereof as the names appear as of the fifteenth day of the month preceding the interest payment date (“Record Date”) and at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time).

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

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

The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent upon giving 30 days' notice in writing to the City and by first class mail to each registered owner of the Bonds then outstanding, and such resignation will take effect at the end of such 30 day period or upon the earlier appointment of a successor registrar and paying agent by the City. Any such notice to the City may be served personally or sent by registered mail. The Registrar and Paying Agent may be removed at any time as Registrar and Paying Agent by the City, in which

event the City may appoint a successor registrar and paying agent. The City shall notify each registered owner of the Bonds then outstanding by first class mail of the removal of the Registrar and Paying Agent. Notices to the registered owners of the Bonds shall be deemed to be given when mailed by first class mail to the addresses of such registered owners as they appear on the registration books kept by the Registrar.

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

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

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

With respect to Bonds registered in the register kept by the Registrar in the name of CEDE & CO., no person other than the Depository Trust Company shall receive an authenticated Bond evidencing an obligation of the City to make payments of the principal of and premium, if any, and interest on the Bonds pursuant to this ordinance. The City and the Registrar and Paying Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Bonds; (iii) registering transfers with respect to such Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the order of the Depository Trust Company, and all such payments shall be valid and effective fully to satisfy

and discharge the City's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the City of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this ordinance shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any Bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the City to the Depository Trust Company.

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

If the City determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered Bonds, the City may notify the Depository Trust Company and the Registrar, whereupon the Depository Trust Company will notify the Beneficial

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

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

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

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

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

(e) Each of the Bonds and BANs shall be executed in the name of the City by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the Controller and the seal of the City shall be affixed, imprinted or impressed to or on each of the Bonds and BANs manually, by facsimile or any other means; and these officials, by the execution of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures the facsimile signatures appearing on the Bonds and BANs.

In case any officer of the City who shall have signed or sealed any Bond or BAN shall cease to be such officer before the Bond or BAN so signed or sealed shall actually have been delivered or issued, such Bond or BAN may be delivered and issued with the same effect as though the person who had signed and sealed such Bond or BAN had not ceased to be an officer of the City.

No Bond shall be deemed to be issued and outstanding hereunder unless it shall have been authenticated by the manual signature of an authorized officer of the Registrar.

Section 7. Lost, Destroyed or Mutilated Bonds. If any Bond or BAN shall become mutilated, lost, stolen or destroyed, the appropriate officers of the City, at their discretion, may issue a new Bond or BAN, of like tenor, amount, maturity, series and date, and bearing the same or a different number, in exchange and substitution for, and upon the cancellation of the mutilated Bond or BAN, or in lieu of and substitution for such lost, stolen or destroyed Bond or BAN; or if any such Bond or BAN shall have matured or shall be about to mature, instead of issuing a substituted Bond or BAN the officers may pay such Bond or BAN, without surrender. In every case the applicant shall furnish evidence satisfactory to the officers of the destruction, theft or loss of such Bond or BAN, and indemnity satisfactory to these officers; and the officers shall charge for the issue of such new Bond or BAN an amount sufficient to reimburse the City for the expenses incurred by it in the issuance of it.

Section 8. Negotiability. Subject to the provisions of this ordinance for registration, the Bonds and the BANs shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana.

Section 9. Source of Payment and Pledge of Net Revenues. (a) The BANs, if issued, shall be payable solely from the proceeds of the Bonds.

(b) The Bonds and any Parity Bonds hereafter issued, as to both principal and interest, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon all the Net Revenues of the System on a parity with the Outstanding Bonds. The City shall not be obligated to pay the Bonds or the interest thereon except from the Net Revenues of the System, and the Bonds shall not constitute an indebtedness of the City, within the meaning of the provisions and limitations of the constitution of the State of Indiana. The punctual payment of principal of and interest on the Bonds and the Outstanding Bonds shall be secured

equally and ratably by the Net Revenues without priority by reason of series, number or time of sale or delivery.

Section 10. Form of Bond and Registration Provision. The form and tenor of the Bonds shall be substantially as follows, all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery thereof:

(Form of Bond)

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the City of Evansville, 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 VANDERBURGH

CITY OF EVANSVILLE

[TAXABLE] SEWAGE WORKS REVENUE BOND, SERIES 201__ _]

[Maturity Date] Interest Rate Original Date Authentication Date [CUSIP]

REGISTERED OWNER:

PRINCIPAL SUM:

The City of Evansville, in Vanderburgh County, State of Indiana (“City”), for value received, hereby promises to pay to the Registered Owner stated above (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), or registered assigns, the Principal Sum stated 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 stated above,] OR [July 1 in the years and amounts as set forth on Exhibit A attached hereto] and to pay interest hereon, until the Principal Sum shall be paid at the Interest Rate per annum stated above, from [the dates of payment made

on this bond] OR [the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this bond is authenticated after the 15th 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__, in which case it shall bear interest from the Original Date,] until the principal is paid, which interest is payable semiannually on the first days of January and July of each year, beginning on _____1, 20___. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

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

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

This bond is [the only] one of an authorized issue of bonds of the City, [[to be] [issued in series] of like date, tenor and effect, [except as to rates of interest[, series designation,] and dates of maturity]], in the aggregate amount of _____ Dollars (\$ _____) [for this series]; numbered consecutively from 1 up; issued for the purpose of providing funds to be applied to the cost of additions, extensions and improvements to the System (as defined in the hereinafter defined Ordinance) of the City (“Project”)[, to refund interim notes issued in anticipation of the bonds], to fund a debt service reserve, and to pay issuance expenses[, including a premium for a reserve fund surety policy]. This bond is issued pursuant to an ordinance adopted by the Common Council of the City on _____, 2016 entitled “An Ordinance authorizing the issuance of sewage works revenue bonds of the City of Evansville, Indiana and issuance of notes in anticipation of the issuance of bonds; prescribing the form and other details of the bonds; providing for the collection and disposition of the revenues to be

derived from its sewerage system; making other provisions with respect to the operation of the system and the issuance and sale of the bonds and notes; and providing for the security and payment of the bonds and notes; other matters connected therewith, and repealing ordinances inconsistent herewith” (“Ordinance”), and in strict compliance with Indiana Code 36-9-23 as in effect on the date of delivery of the bonds, and other applicable provisions of Indiana law (“Act”) for the purpose of paying the costs of the Project, to fund a debt service reserve [, the payment of notes issued in anticipation of the bonds,] and expenses necessarily incurred in connection with these proceedings and with the issuance of the Bonds[, including a premium for a reserve fund surety policy].

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

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

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this bond and all other bonds of this issue, [including the Sewage Works Revenue Bonds of 20___, Series ___ (“Series ___ Bonds”)] and any bonds hereafter issued on a parity therewith, are payable solely from the Sewerage System Bond Fund (continued by the Ordinance) (“Bond Fund”) and the Sewerage System Bond Reserve Fund (“Reserve Fund”) to be provided from the Net Revenues (defined as gross revenues of the System after deduction of current expenses of the System) of the System, including the existing works, the improvements and extensions constructed or acquired by the use of the proceeds of the bonds, and all additions and improvements and replacements thereof subsequently constructed or acquired. The bonds of this issue rank on a parity with the Outstanding Bonds as defined in the Ordinance [and the Series ___ Bonds].

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

The City further covenants that it will set aside and pay into its Bond Fund and Reserve Fund sufficient amount of the Net Revenues of the works to meet: (a) the interest on all bonds payable from the revenues of the sewage works, as such interest shall fall due; (b) the principal of all bonds payable from the Net Revenues of the System, as such principal shall fall due; (c) the necessary fiscal agency charges for paying all bonds and interest; and (d) an additional amount, if necessary, to [create and] maintain the reserve as provided in the Ordinance. Such required payments with respect to the bonds shall constitute a first charge upon all the Net Revenues of the works on a parity with the payments on the Outstanding Bonds [and the Series ___ Bonds]. Reference is made to the Ordinance for a more complete statement of the revenues from which and conditions under which this bond is payable, a statement of the conditions on which obligations may hereafter be issued on a parity with this bond, the manner in which the Ordinance may be amended, and the general covenants and provisions pursuant to which this bond has been issued.

The bonds of this issue maturing on and after July 1, 20___ are subject to redemption at the option of the City, on _____ 1, 20___ or any date thereafter, on [sixty (60)][thirty (30)] days' notice, in whole or in part, in [inverse order of maturity][the order of maturity selected by the City] and by lot within a maturity, at face value, together with the following premiums:

- ___% if redeemed on _____ 1, ____,
or thereafter on or before _____, ____;
- ___% if redeemed on _____ 1, ____,
or thereafter on or before _____, ____;
- 0% if redeemed on _____ 1, ____,
or thereafter prior to maturity;

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

[The bonds maturing on July 1, 20_ are subject to mandatory sinking fund redemption on July 1 in the years and in the amounts set forth below:

20___	Term Bond
<u>Year</u>	<u>Amount</u>

*

*Final Maturity]

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

by lot the Bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.]

Notice of such redemption shall be mailed to the address of the registered owner as shown on the registration 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 unless the notice is waived by the registered owners of this bond. The notice shall specify the date and place of redemption and the dates of maturity of the bonds called for redemption. The place of redemption may be determined by the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice, if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

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

This bond is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the [principal corporate trust] office of the Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance and upon surrender and cancellation of this bond. Upon such transfer a new registered bond or bonds of the same series and the same maturity, of authorized denomination or denominations, of the same aggregate principal amount will be issued to the transferee in exchange therefor.

The bonds are subject to defeasance prior to redemption or payment as provided in the Ordinance, and the owner of this bond, by the acceptance hereof, hereby agrees to all the terms and provisions contained in the Ordinance.

The bonds maturing in any one year are issuable only in fully registered form in the denomination of [Five Thousand Dollars (\$5,000)] [One Dollar (\$1)] or any integral multiple thereof not exceeding the aggregate principal amount of the bonds maturing in such year.

It is hereby certified and recited that all conditions, acts and things required by law and the constitution of the State of Indiana to be done precedent to and in the issuance, sale and delivery of this bond exist, have happened and have been performed in regular and due form as prescribed by law.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance authorizing this bond until this bond shall have been manually authenticated by the Registrar.

IN WITNESS WHEREOF, the City of Evansville, Indiana, has caused this bond to be executed by the manual or facsimile signature of the Mayor of the City, and attested by the manual or facsimile signature of the Controller, and has caused the seal of the City to be impressed or reproduced hereon as of the Original Date stated above.

CITY OF EVANSVILLE, INDIANA

By _____
Mayor

(Seal)

ATTEST:

Controller

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

It is hereby certified that this bond is one of the bonds described in the within-mentioned Ordinance duly authenticated by the Registrar.

as Registrar

By: _____
Authorized Representative

ASSIGNMENT

For value received, the undersigned hereby sells and transfers unto

(Please Print or Typewrite Name and Address of Transferee)

the within bond, and does hereby irrevocably constitute and appoint _____, attorney, to transfer this bond on the books kept for registration thereof with full power or substitution in the premises.

Dated: _____

Signature Guaranteed:

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

Registered Owner
(NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the front of this bond in every particular without alteration or enlargement or any change whatsoever.)

[EXHIBIT A

[To be completed on a separate page]]

Section 11. Authorization for Preparation and Sale of BANs and Bonds; Continuing Disclosure. (a) The Controller is hereby authorized and directed to have the Bonds and BANs prepared, and the Mayor and Controller are hereby authorized and directed to execute the Bonds and BANs in the form and manner provided in this ordinance. The Controller is hereby authorized and directed to deliver the Bonds and BANs to the respective purchasers after sale made in accordance with the provisions of this ordinance, provided that at the time of this delivery the Controller shall collect the full amount which the purchasers have agreed to pay for the Bonds or BANs, which amount shall not be less than par value of the Bonds if sold to the Authority as part of its SRF Program or not less than ninety-eight and five-tenths percent (98.5%) of the par value of the Bonds if sold to any other purchaser, as the case may be, or not less than one hundred percent (100%) of the par value of the BANs if sold to the Authority as part of its SRF Program or not less than ninety-nine percent (99%) of the par value of the BANs if sold to any other purchaser, plus interest accrued to the date of delivery, if any. The City may receive payment for the Bonds and BANs in installments. Each series of Bonds herein authorized, as and to the extent paid for and delivered to the Original Purchasers, shall be the binding special revenue obligations of the City, payable solely out of the Net Revenues of the

City's sewage works to be set aside into the Bond Fund as provided in Section 14 of this ordinance, and the proceeds derived from the sale of the Bonds shall be and are hereby set aside for application to the Costs of the Project, the Refunding, the funding of a debt service reserve, and the cost of redemption of the BANs, if issued, together with any outstanding accrued interest. The BANs, as and to the extent paid for and delivered to the purchasers, shall be binding special obligations of the City, payable solely out of proceeds of the Bonds. The proceeds derived from the sale of the BANs shall be and are hereby set aside for application to the Costs of the Project. The proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

With respect to Bonds that are not sold to the Authority, as part of its SRF Program, distribution of an Official Statement (preliminary and final) prepared by H.J. Umbaugh & Associates, Certified Public Accountants, LLP ("Umbaugh") on behalf of the City, is hereby approved, and the Mayor and Controller are authorized and directed to execute the Official Statement on behalf of the City in a form consistent with this ordinance. The Mayor and Controller are hereby authorized to designate the preliminary Official Statement as "nearly final" for purposes of Rule 15c2-12 ("Rule") promulgated by the Securities and Exchange Commission.

If necessary to comply with the Rule, the City shall execute and deliver a form of Continuing Disclosure Undertaking Agreement ("Undertaking"). The Mayor or the Controller are hereby authorized and directed to complete and execute the Undertaking on behalf of the City, if necessary to comply with the Rule. Notwithstanding any other provisions of this

ordinance, failure of the City to comply with the Undertaking shall not be considered an event of default under the Bonds or this ordinance.

(b) Prior to the sale of any series of Bonds to be sold at a competitive bond sale, the Controller shall cause to be published either: (i) a notice of bond sale in *The Evansville Courier & Press*, the only newspaper published in Evansville, Indiana, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in *The Evansville Courier & Press* and the *Court & Commercial Record* all in accordance with IC 5-1-11 and IC 5-3-1. A notice or summary notice of sale may also be published in the *Court & Commercial Record* or in *The Bond Buyer* in New York, New York. The notice may state the time and place of sale, the character and amount of the Bonds, the maximum rates of interest on the Bonds, the terms and conditions upon which bids will be received and the sale made, and such other information as the Controller and the attorneys and advisers employed by the City shall deem advisable, and any summary notice may contain any information deemed so advisable. The notice may provide, among other things, that each bid shall be accompanied by a certified or cashier's check or a financial surety bond in the amount of one percent of the principal amount of the Bonds to guarantee performance on the part of the bidder. If a financial surety bond is used, it must be from an insurance company licensed to issue such bond in the State of Indiana, and such bond must be submitted to the City prior to the opening of the bids. The financial surety bond must identify each bidder whose good faith deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit to the City a certified or cashier's check (or wire transfer such amount as instructed by the City) not later than 3:30 p.m. (Evansville Time) on the

next business day following the award. In the event the successful bidder shall fail or refuse to accept delivery of the Bonds and pay for the Bonds as soon as the Bonds are ready for delivery, or at the time fixed in the notice, then the check and the proceeds of the check shall be the property of the City and shall be considered as its liquidated damages on account of such default; that bidders for the Bonds will be required to name the rate or rates of interest which the Bonds are to bear, not exceeding the maximum rates fixed in this ordinance, and that such interest rate or rates shall be in multiples of one-eighth (1/8) or one-twentieth (1/20) of one percent (1%). The rate bid on a maturity of a series shall be equal to or greater than the rate bid on the immediately preceding maturity of such series. No conditional bids or bids for less than ninety-eight and five-tenths percent (98.5%) of the face value of the Bonds will be considered.

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

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

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

Section 12. Designation of Bond Counsel. The Controller is hereby authorized and directed to obtain legal opinions as to the validity of the BANs and the Bonds, respectively, from Barnes & Thornburg LLP, bond counsel of Indianapolis, Indiana, and to furnish such opinions to the purchasers of the BANs and the Bonds, respectively. The costs of these opinions shall be considered a part of the Costs of Project and shall be paid out of the proceeds of the BANs and the Bonds.

Section 13. Disposition of BAN and Bond Proceeds. (a) The accrued interest and premium, if any, received at the time of the delivery of the BANs and the Bonds, shall be deposited in the Bond Fund.

(b) Proceeds of the Bonds shall be used to pay the principal of and interest on the BANs, if issued, to the date of redemption. The Controller is hereby directed to give appropriate notice of redemption of the BANs as provided in this ordinance to accomplish redemption of the BANs on the earliest possible redemption date after issuance of the Bonds.

(c) Bond proceeds in an amount not to exceed ten percent (10%) of the proceeds of each series of the Bonds may be deposited into the Reserve Fund and held in accordance with

Section 14(c). The amount of the deposit, if any, shall be determined by the Controller after consultation with the financial advisor and bond counsel.

(d) (1) The balance of the proceeds of the Bonds (to the extent not used for the repayment of the BANs) and the balance of the BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City and accounted for on the City's books, in a special account or accounts, separate and apart from other accounts of the City, to be designated as "Sewage Works Construction Account" ("Account").

(2) Unless subsection (3) below is applicable at the direction of the Authority as part of its SRF Program, any balance or balances remaining unexpended in the Account after completion of the Project which are not required to meet unpaid obligations incurred in connection with such Project shall either (1) be deposited in the Bond Fund and be used solely for the purposes of the Bond Fund; (ii) be deposited in the Reserve Fund and used solely for the purposes of the Reserve Fund; or (iii) be used for the same purpose or type of project for which the Bonds were issued, all in accordance with IC 5-1-13, as amended and supplemented.

(3) With respect to any Bonds sold to the Authority as part of its SRF Program, to the extent that (a) the total principal amount of the Bonds is not paid by the purchaser or drawn down by the City or (b) proceeds remain in the Construction Account and are not applied to the Project (or any modifications or additions thereto approved by the Department and the Authority), the City shall reduce the principal amount of the Bond maturities to effect such reduction in a manner that will still achieve the annual debt service as described in Section 4 subject to and upon the terms set forth in the Financial Assistance Agreement.

(e) All moneys deposited to the credit of the Improvement Fund or the Account shall be deposited, held secured or invested in Qualified Investments in accordance with the laws of

the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13, as amended and supplemented, including pursuant to IC 4-4-11 and IC 13-18-13. Any income from investments of funds in the Account shall be deposited in the Account. The funds in the Account shall be expended only for the purpose of paying the Costs of the Project, including the incidental expenses incurred in connection with the Project or the issuance of the BANs and the Bonds, the necessary engineering and legal expenses, and necessary equipment all in accordance with the Act.

Section 14. Application of Revenues. From and after the delivery of any Bonds, and as long as any of the Outstanding Bonds or the Bonds shall be outstanding and unpaid either as to principal or as to interest, the entire Gross Revenues shall be deposited as collected in the “Evansville Sewerage System Revenue Fund” (“Revenue Fund”), hereby continued, and shall be disbursed only as follows:

- (a) First from month to month for the payment of Current Expenses.
- (b) Next to make deposits into a separate and special fund, hereby continued, to pay principal of and interest on the Outstanding Bonds, the Bonds and any Parity Bonds as they become due, which fund is known as the “Evansville Sewerage System Bond Fund” (“Bond Fund”). Such transfers shall be made on or before the 15th day of each month, and, unless there shall be on deposit in the Bond Fund an amount sufficient to pay all interest coming due on the next interest payment date, and all principal coming due on the July 1 next succeeding, the minimum amount to be deposited in the Bond Fund in any month shall be an amount equal to the sum of one-sixth of the interest coming due on the next succeeding interest payment date on all of the Bonds, the Outstanding Bonds and any Parity Bonds, and one-twelfth (or one-sixth, as appropriate) of the principal coming due on the principal payment date next succeeding on all of

the Bonds, the Outstanding Bonds and any Parity Bonds, or such greater amount as may be necessary to pay such interest and principal. There shall also be deposited in the Bond Fund from time to time amounts sufficient to pay the necessary fiscal agency charges. Money in the Bond Fund shall be used solely for the purpose of paying principal of and interest on the Bonds, the Outstanding Bonds and any Parity Bonds and the necessary fiscal agency charges, all as set forth above.

(c) Next, to continue, fund and maintain a debt service reserve in an amount equal to at least the maximum annual principal and interest requirements of the outstanding Bonds, the Outstanding Bonds and Parity Bonds. Such fund shall be known as the “Evansville Sewerage System Bond Reserve Fund” (“Reserve Fund”). On or before the 15th day of each month there shall be deposited in the Reserve Fund an amount equal to at least twenty percent of the amount required by the preceding subsection to be deposited in such month in the Bond Fund (which requirement shall be deemed satisfied by the City by depositing thereto on a monthly basis such amount as will enable the City to fully satisfy such reserve requirement within sixty (60) months following the issuance of the bonds), unless the amount in the Reserve Fund shall be equal to or exceed the maximum annual principal and interest requirements of the outstanding Bonds, the Outstanding Bonds and any Parity Bonds, in which case no deposit need be made into the Reserve Fund except to maintain the Reserve Fund at such level. The requirements of the Reserve Fund may be met by the purchase of a reserve fund surety policy, provided, however, that the City must obtain the consent of the Authority if any Bonds are sold to the Authority as part of its SRF Program.

Money in the Reserve Fund shall be used solely for the purpose of paying principal at maturity of or interest on the Bonds, the Outstanding Bonds and any Parity Bonds for the

payment of which no money shall be available in the Bond Fund. Whenever it becomes necessary to so use money in the Reserve Fund, the payments required above shall be continued or resumed until it shall have been restored to the required minimum amount, which restoration to the required minimum amount shall occur within one year of the time that the Reserve Fund falls below the required amount. Such restoration may include the purchase of an additional surety policy to meet the requirements of the Reserve Fund, provided, however, that the City must obtain the consent of the Authority if any Bonds are sold to the Authority as part of its SRF Program.

To the extent the Reserve Fund contains one or more surety policies for any of the Outstanding Bonds, Bonds or Parity Bonds, the following shall apply:

- (1) If it should ever be necessary to draw on the Reserve Fund, draws must be made on surety policies and the cash held in the Reserve Fund proportionately; and
- (2) If it becomes necessary to restore the cash drawn from the Reserve Fund or make payments to restore a surety policy, such payments must be made on a pari passu (parity) basis.

If the Reserve Fund allocable to the Bonds exceeds the least of: (i) maximum annual debt service on the Bonds; (ii) ten percent (10%) of the proceeds of the Bonds, plus a minor portion thereof as defined in the Internal Revenue Code of 1986, as amended; or (iii) one hundred twenty-five percent (125%) of average annual principal and interest on the Bonds, such excess shall be invested at a yield which does not exceed the yield on the Bonds. The Reserve Fund shall be allocated to the Bonds according to the original face amounts of the Outstanding Bonds, the Bonds and any Parity Bonds or according to the total amount of debt service on the issues

that will actually be paid from the Bond Fund and the Reserve Fund as determined by the Controller.

(d) Next, to pay the principal of and interest on (including reasonable reserves therefor) any other obligations which by their terms are payable from the Net Revenues of the System, but junior and subordinate to the Bonds, the Outstanding Bonds and any Parity Bonds.

(e) Next, for the redemption or purchase of Outstanding Bonds, Bonds or Parity Bonds, as determined by the Common Council.

(f) Next, to a fund designated the "Sewage Works Improvement Fund" ("Improvement Fund"), hereby continued. The City shall deposit, if necessary, each month a sum of remaining Net Revenues into the Improvement Fund until the balance therein equals One Million Dollars (\$1,000,000). The monthly deposits shall be equal in amount and sufficient to accumulate the required balance in the Improvement Fund within eighteen (18) months of the date of delivery of the Bonds; if the balance in the Improvement Fund falls below One Million Dollars (\$1,000,000), the City shall resume its monthly deposits into the Improvement Fund until the required balance is once again attained. Any invested amounts held for wastewater treatment plant replacement shall be considered a part of the required Improvement Fund balance.

Moneys in this Fund shall be used solely for improvements, replacements, additions and extensions to the System, but none of the moneys in such Fund shall be used for depreciation, replacements, improvements, extensions or additions. Moneys in the Improvement Fund shall be transferred to the Bond Fund if necessary to prevent a default in the payment of principal of or interest on any outstanding bonds or BANs or, if necessary, to eliminate any deficiencies and credits or to the minimum balance in the Reserve Fund or may be used to pay Current Expenses

as provided in subsection (a) of this section to meet unforeseen contingencies in the operation and maintenance of the System.

(g) If the requirements of subsections (a) through (f) of this Section have been met and if the Common Council determines by ordinance that there are sufficient funds in the Improvement Fund for improvements, replacements, additions and extensions of the System, any excess amounts in the Revenue Fund may be used for any other lawful purpose, including payments in lieu of tax payments to the City.

The money in the Revenue Fund shall be allotted and paid into the various funds referred to above in the order in which those funds are listed, on a cumulative basis, and if in any month the money in the Revenue Fund shall be insufficient to place the required amount in any of these funds, the deficiency shall be made up in the following month or months after payment into all funds enjoying a prior claim to the Gross Revenues shall have been met in full.

All of the funds provided by this section, other than the Improvement Fund, shall be kept on deposit with a bank or banks which shall be members of Federal Deposit Insurance Corporation and shall be secured to the fullest extent required by law.

To the extent permitted by Indiana law, money in any fund, other than the Improvement Fund, continued by this section may be invested in Qualified Investments maturing not later than the date on which the money so invested shall be required for the purpose for which such fund was created. The Improvement Fund shall be invested as provided in Section 13(e). All income derived from such investments, and from investments of moneys held in the Improvement Fund, shall be regarded as revenues of the System and shall be deposited in the Revenue Fund. Such investments shall at any time necessary be liquidated and the proceeds applied to the purpose for which the respective fund was created.

The Bond Fund, the Reserve Fund (or any portions thereof applicable to the Bonds) and the Construction Account, may be held by a financial institution acceptable to the Authority as part of its SRF Program, pursuant to terms acceptable to the Authority. If the Bond Fund and the Reserve Fund, or any portions thereof applicable to the Bonds are so held in trust, the City shall transfer the monthly required amounts of Net Revenues to the Bond Fund and the Reserve Fund in accordance with Section 14 of this ordinance, and the financial institution holding such funds in trust shall be instructed to pay the required payments in accordance with the payment schedules for the Bonds. If the Construction Account is so held in trust, the City shall deposit the proceeds of the Bonds therein until such proceeds are applied consistent with this ordinance and the Financial Assistance Agreement. The financial institution selected to serve in this role may also serve as the Registrar and the Paying Agent for any outstanding bonds of the City, including the Bonds. The Mayor and Controller are hereby authorized to execute and deliver an agreement with a financial institution to reflect this trust arrangement for the Bond Fund, the Reserve Fund and the Construction Account in the form of trust agreement as approved by the Mayor and Controller, consistent with the terms and provisions of this ordinance.

Section 15. Covenants Regarding the Operation of the System. The City hereby covenants and agrees, to the extent permitted by law, with each and every owner of the Bonds and BANs:

(a) That the City will maintain the System in good condition and will operate the System in an efficient manner and at reasonable cost.

(b) That it will establish and maintain just and equitable rates or charges for the use of and the service rendered by the 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 sewage works by or through any

part of the System, or that in any way uses or is served by such works; that such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of Operation and Maintenance (as defined in the Financial Assistance Agreement), to comply with and satisfy all covenants contained in this ordinance and the Financial Assistance Agreement, and for the payment of the sums required to be paid into the Bond Fund and the Reserve Fund by the Act and this ordinance. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of Operation and Maintenance, and the requirements of the Bond Fund and the Reserve Fund. The rates or charges so established shall apply to any and all use of the System by and service rendered to the City and all departments of the City, and shall be paid no less frequently than semiannually by the City or the various departments as the charges accrue.

(c) That so long as any of the Bonds, or BANs are outstanding, the City will acquire and maintain insurance on the insurable parts of the System, other than public liability insurance, of the kinds and in the amounts which is usually carried by private companies engaged in a similar type of business, including fidelity bonds, to protect the System and its operations and, if any Bonds or BANs are sold to the Authority as part of its SRF Program, acceptable to the Authority.

(d) That the City will cause to be kept proper books and accounts adapted to the System, and will cause the books and accounts to be audited annually by a recognized firm of independent certified public accountants, or by the State Board of Accounts. Each such audit, in addition to whatever matters may be thought proper by the accountants to be included therein, shall include the following:

(1) A statement in detail of the income and expenditures of the System for such Fiscal Year;

(2) A balance sheet as of the end of such Fiscal Year;

(3) The accountants' comments, if any, regarding the manner in which the City has carried out the requirements of this ordinance;

(4) A list of the insurance policies in force at the end of the Fiscal Year, setting out as to each policy the amount of the policy, the risks covered, the name of the insurer and the expiration date of the policy.

All expenses incurred in the making of the audits required by this subsection shall be regarded and paid as a Current Expense. The City further agrees to furnish copies of such audits to the owner of any of the BANs or the Bonds at its request within 240 days after the close of each Fiscal Year. The Original Purchasers and owners of any of the BANs or the Bonds shall have at all reasonable times the right to inspect the System and the records, accounts and data of the City relating thereto. It is further agreed that if the City shall fail to provide the audits and reports required by this subsection, the Original Purchasers or the owners of twenty-five percent in principal amount of the Outstanding Bonds and the BANs or the Bonds may cause such audits and reports to be prepared at the expense of the City as a Current Expense payable solely out of revenues of the System.

If the Bonds or BANs are sold to the Authority as part of its SRF Program, the City shall establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the sewage works in accordance with (i) generally accepted governmental accounting standards for utilities, on an

accrual basis, as promulgated by the Government Accounting Standards Board and (ii) the rules, regulations and guidance of the State Board of Accounts.

(e) That the City will faithfully and punctually perform all duties with reference to the System required by the constitution and laws of the State of Indiana, including the making and collecting of reasonable and sufficient rates for services rendered by the System as above provided, and will segregate the revenues of the System and apply the revenues to the funds specified in this ordinance.

(f) That, with respect to the Bonds or BANs that are not sold to the Authority as part of its SRF Program, the City will not sell, mortgage or in any manner dispose of the System, or any part thereof, including any and all extensions and additions that may be made thereto, except to replace equipment which may become worn out or obsolete. If any such BANs or Bonds are sold to the SRF Program, so long as any of the BANs or Bonds are outstanding, the City shall not sell, transfer, lease or otherwise encumber the System, or any portion thereof, or any interest therein without the prior written consent of the Authority.

(g) That each officer of the City having custody of funds of the System shall be under fidelity bond at all times in an amount as prescribed by the City.

(h) That the City will not grant a franchise to any competing sewerage system.

(i) That the City will not reduce the sewer rates and charges provided in the Rate Ordinance, or postpone the effective date of any rate increase provided therein, unless the Net Revenues for each of the three last preceding Fiscal Years shall have been not less than 150 percent of the amount of principal and interest coming due on the Bonds, the Outstanding Bonds and Parity Bonds in the respective Fiscal Years next succeeding.

(j) That the City will diligently enforce and collect all fees, rates or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates or other charges which shall become delinquent to the full extent permitted by law.

(k) That the City will, to the extent permitted by law, require the owner, tenant or occupant of each block or parcel of land abutting upon a street or other public way in the City containing an accessible sanitary sewer and upon which lot or parcel a building for residential, commercial or industrial use is situated, to connect such building with such sanitary sewer and to cease to use other means for the disposal of sewage, sewage waste or other polluting matter.

(l) The City will permit no free sewer service to be furnished to any user whatsoever, including the City and all its departments, and the rates for all services rendered by the System and the charges for all sewer service supplied through the medium of the System to all users shall be reasonable and just, taking into account and consideration the cost and value of the System and the cost of maintaining and operating the System, and the proper and necessary allowance for the depreciation thereof, and the amounts necessary for the payment of principal of and interest on the obligations payable from such revenues, and there shall be charged against all users of sewer service such rates as shall be fully adequate to meet the requirements of Section 14 of this ordinance.

(m) That all contracts let by the City in connection with the Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred percent (100%) of the amount of those contracts to ensure the completion of those contracts in accordance with their terms, and such contractors shall also be required to carry such employer's liability and public

liability insurance as are required in the laws of the State of Indiana in the case of a public contract, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(n) That the Project shall be constructed under the supervision and subject to the approval of the Engineers.

(o) That, except as provided in Section 17, as long as any of the Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of the System shall be authorized, executed or issued by the City except as such shall be made subordinate and junior in all respects to the Outstanding Bonds and the Bonds, unless all of the Bonds, the Outstanding Bonds and any Parity Bonds are redeemed, retired or defeased pursuant to Section 18 coincidentally with the delivery of such additional bonds or other obligations.

(p) That the provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the BANs and the proceeds of the Bonds for the uses and purposes set forth in this ordinance, and the owners of the BANs and the Bonds shall retain a lien on such proceeds until the proceeds are applied in accordance with the provisions of this ordinance and of the Act. The provisions of this ordinance shall also be construed to create a trust in the portion of the Net Revenues directed to be set apart and paid into the Bond Fund and the Reserve Fund for the uses and purposes of those funds as this ordinance sets forth.

(q) So long as any of the BANs or Bonds are sold to the Authority as part of its SRF Program, the City shall not, without the prior written consent of the Authority, (i) enter into any lease, contract or agreement or incur any other liabilities in connection with the System other than for normal operating expenditures, or (ii) borrow any money (including without limitation any loan from other utilities operated by the City)..

(r) For purposes of this Section 15, the term “lease” shall include any lease, contract, or other instrument conferring a right upon the City to use property in exchange for a periodic payments made from the revenues of the System, whether the City desires to cause such to be, or by its terms (or its intended effects) is to be, (i) payable as rent, (ii) booked as an expense or an expenditure, or (iii) classified for accounting or other purposes as a capital lease, financing lease, operating lease, non-appropriation leases, installment purchase agreement or lease, or otherwise (including any combination thereof).

(s) So long as the BAM Insured Outstanding Bonds are insured by Build America Mutual Assurance Company (“BAM”), the City will comply with the provisions set forth in the Certificate Regarding Bond Insurance, dated July 28, 2016, from the City and Old National Wealth Management, as registrar and paying agent for the BAM Insured Outstanding Bonds, to BAM.

Section 16. Remedies of Bondholders. Except as expressly limited in this ordinance, the owners of the Bonds and the BANs shall have and possess all the rights of action and remedies afforded by the common law, the constitution and statutes of the State of Indiana and of the United States of America for the enforcement of payment of their Bonds and BANs and of the pledge of the Net Revenues made under this ordinance, and of all covenants of the City hereunder, including all the benefits and rights granted by the Act.

The owners of the Outstanding Bonds, the Bonds, and any Parity Bonds shall in addition to all other remedies and rights, have the right by appropriate proceedings in any court of competent jurisdiction in the event of default in the payment of principal or interest, to obtain the appointment of a receiver for the System, which receiver may enter upon and take possession of the System and fix rates and collect all revenue arising therefrom in as full a manner and to the

same extent as the City itself might do. The receiver shall collect and dispose of such revenues in accordance with the terms and conditions of this ordinance and as the court shall direct.

Section 17. Prior Lien and Parity Bonds. (a) The City will issue no other bonds or obligations of any kind or nature payable from or enjoying a lien or claim on the Net Revenues of the System having priority over the Bonds or the Outstanding Bonds.

The City reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs.

(b) The City reserves the right to authorize and issue additional Parity Bonds, payable out of the Net Revenues of its System, ranking on a parity with the Bonds, for the purpose of financing the cost of future additions, extensions and improvements to the System, or for refunding outstanding bonds, subject to the following conditions:

(1) The interest on and principal of all bonds payable from the Net Revenues of the System shall have been paid to date in accordance with their respective terms. The Reserve Requirement shall be satisfied for additional Parity Bonds either at the time of delivery of the additional Parity Bonds or over a period, and in a manner, which is commensurate with the requirements established in Section 14(c) of this ordinance.

(2) The Net Revenues of the System in the fiscal year immediately preceding the issuance of any such Parity Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding Bonds, Outstanding Bonds, any Parity Bonds and the additional Parity Bonds proposed to be issued; or, prior to the issuance of the Parity Bonds, the sewage rates and charges shall be increased sufficiently so that the increased rates and charges applied to the previous fiscal year's operations would have produced Net Revenues for that year equal to not less than one hundred twenty-five

percent (125%) of the maximum annual interest and principal requirements of the then outstanding Bonds, Outstanding Bonds, any Parity Bonds and the additional Parity Bonds proposed to be issued.

For purposes of issuing future Parity Bonds, independent certified public accountants shall be employed by the City to analyze records of the System and present showings appropriate to such issues.

(3) The principal of the additional Parity Bonds shall be payable annually on July 1 through July 1, 2037, and semiannually on January 1 and July 1 thereafter, and the interest on the additional Parity Bonds shall be payable semiannually on January 1 and July 1 in the years in which such principal and interest are payable.

(c) In addition to satisfying the requirements of this Section 17, if any Bonds are sold to the Authority as part of its SRF Program, the City shall not issue Parity Bonds until: (i) the City obtains the consent of the Authority; (ii) the City has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the Financial Assistance Agreement and this ordinance; and (iii) the City is in compliance with its National Pollutant Discharge Elimination System permits, except for non-compliance for which purpose the Parity Bonds are issued, including refunding bonds issued prior to, but part of the overall plan to eliminate such non-compliance.

Section 18. Discharge and Satisfaction of Bonds. If, when any Bonds shall have become due and payable in accordance with their terms, or shall have been duly called for redemption or irrevocable instructions to call all or any portion of the Bonds for redemption shall have been given, and the whole amount of the principal of, interest on and premium, if any, so due and payable upon all or any portion of the Bonds then outstanding shall be paid; or (i)

sufficient moneys, or (ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, the principal of and the interest on which when due will provide sufficient moneys, or (iii) time certificates of deposit fully secured as to both principal and interest by obligations of the kind described in (ii) above of a bank or banks the principal of and interest on which when due will provide sufficient moneys, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case, such Bonds shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's System.

Section 19. Tax Representations and Covenants. In order to preserve the exclusion of interest on the Bonds and BANs from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the Bonds or BANs, as the case may be ("Code"), and as an inducement to purchasers of the Bonds and BANs, the City represents, covenants and agrees that:

(a) The System will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the City or another state or local governmental unit will use more than ten percent (10%) of the proceeds of the Bonds or BANs or property financed by the Bond or BAN proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by Bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in

the aggregate relate to no more than ten percent (10%) of the proceeds of the Bonds or BANs, as the case may be.

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

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

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

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

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

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

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

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

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

Section 20. Ordinance a Contract. The provisions of this ordinance shall constitute a contract between the City and the owners of the Bonds and BANs, and after the issuance of any of the Bonds and BANs no change, variation or alteration of any kind in the provisions of this ordinance shall be made in any manner, except as provided in this section and the next section,

until such time as all of the Bonds and the BANs and interest due thereon, shall have been paid in full. Subject to Section 21(b), this ordinance may be amended, however, without the consent of Bond owners or BAN owners, respectively, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Bonds, the Outstanding Bonds or the BANs, respectively; provided, however, that if any Bonds or BANs are sold to the Authority as part of its SRF Program, the City shall obtain the prior written consent of the Authority.

Section 21. Modification of Ordinance. (a) In addition to amendments made under Section 20, this ordinance may be amended from time to time if such amendment shall have been consented to by owners of not less than two-thirds in principal amount of the Bonds, and, if the owners of the Outstanding Bonds and any Parity Bonds are affected by such amendment as determined in the sole discretion of the Common Council, the Outstanding Bonds and any Parity Bonds at any time outstanding (not including in any case any Bonds, Outstanding Bonds or Parity Bonds which may then be held or owned by or for the account of the City, but including such refunding bonds as may have been issued for the purpose of refunding any of the Bonds, Outstanding Bonds or Parity Bonds if such refunding bonds shall not then be owned by the City); provided, however, that if any Bonds or BANs are sold to the Authority as part of its SRF Program, the City shall obtain the prior written consent of the Authority.

(b) However, this ordinance may not be amended in such manner as to:

(i) Make any change in the maturity or interest rate of the Bonds, or modify the terms of payment of principal of or interest on the Bonds or any of them or impose any conditions with respect to such payment;

(ii) Materially affect the rights of the holders or owners of the Bonds then outstanding;

(iii) Reduce the percentage of the principal amount of Bonds the consent of the holders or owners of which is required to effect a further amendment;

(iv) Alter the manner in which the covenants, liens and pledges entered into pursuant to this ordinance may be satisfied and discharged; or

(v) Reduce the balance required to be maintained in the Reserve Fund.

(c) Whenever the City shall propose to amend this ordinance under the provisions of this section it shall cause notice of the proposed amendment to be filed with the Original Purchasers and to be mailed to each registered owner of the Bonds at the address shown on the records of the Registrar. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory ordinance is on file in the office of the City Clerk. If the proposed amendment affects the owners of the Outstanding Bonds, notice shall be given and published as provided in the Existing Ordinances.

(d) (1) Whenever at any time within one year from the date of the publication of this notice there shall be filed with the City Clerk an instrument or instruments executed by the owners of at least two-thirds in aggregate principal amount of the Bonds and, to the extent affected by such amendment as determined in the sole discretion of the Common Council, the Outstanding Bonds and any Parity Bonds then outstanding, which instrument or instruments shall refer to the proposed amendatory ordinance described in the notice and shall specifically consent to and approve the adoption the amendatory ordinance, thereupon, but not otherwise, the Common Council may adopt such amendatory ordinance and such ordinance shall become

effective and binding upon the holders or owners of all of the Bonds, Outstanding Bonds and Parity Bonds.

(2) Any consent given by the owner of a Bond, Outstanding Bond or Parity Bond pursuant to the provisions of this section shall be irrevocable for a period of six months from the date of the instrument evidencing such consent and shall be conclusive and binding upon all future owners of the same bonds or notes during such period.

(3) The facts and date of the execution of any instrument under the provisions of this section may be proved by the certificate of any officer in any jurisdiction who by the laws thereof is authorized to take acknowledgments of deeds within such jurisdiction that the person signing such instrument acknowledged before him the execution thereof, or may be proved by an affidavit of a witness to such execution sworn to before such officer.

(4) The amount and numbers of the Bonds, Outstanding Bonds and any Parity Bonds held by any person executing such instrument and the date of its holding the same may be proved by an affidavit by such person or by a certificate executed by an officer of a bank or trust company showing that on the date therein mentioned such person had on deposit with such bank or trust company the Bonds, Outstanding Bonds or Parity Bonds described in such certificate.

Section 22. Issuance of BANs. (a) The City, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs pursuant to a Bond Anticipation Note Purchase Agreement (“Purchase Agreement”) to be entered into between the City and the purchaser of the BAN or BANs. If the BANs are sold to the Authority as part of its SRF Program, the Financial Assistance Agreement shall serve as the Purchase Agreement. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing Bonds to provide interim construction financing for the Project

described in this ordinance until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its Bonds, because the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the Bonds and the use of the proceeds to repay the BAN or BANs.

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

Section 23. Notice of Adoption and Purport. The publication of the notice of adoption and purport relating to the Project is hereby ratified and approved.

Section 24. Severability. If any section, paragraph, or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section 25. Repeal of Conflicting Ordinances and Resolutions; Effective Date. (a) All other ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this ordinance, are, to the extent of such conflict, hereby repealed; provided, however, that this ordinance shall not be construed as repealing or amending the Existing Ordinances or as adversely affecting the rights of the owners of the Outstanding Bonds, except as set out in subsection (b) below. This ordinance shall be in immediate effect from and after its adoption and approval by the Mayor.

(b) The City hereby represents that, other than the BAM Insured Outstanding Obligations, none of the Outstanding Bonds are secured by any municipal bond insurance policy and therefore, except with respect to the BAM Insured Outstanding Obligations, no provision in any of the Existing Ordinances with respect thereto or the right of any such insurer named therein (including without limitation AMBAC Assurance Corporation, a Wisconsin-domiciled stock insurance company, and MBIA Insurance Corporation, a New York-domiciled stock insurance corporation, therein named) shall be (or are) of any further continuing force or effect. The City hereby further represents that none of the Outstanding Bonds are secured by any municipal surety policy held in any reserve securing any such Outstanding Bonds and therefore, no provision in any of the Existing Ordinances with respect thereto or the right of any such insurer named therein (including without limitation AMBAC Assurance Corporation and MBIA Insurance Corporation therein named) shall be (or are) of any further continuing force or effect.

(c) Notwithstanding that the aggregate principal amount of the Outstanding Bonds issued under any of the Existing Ordinances may be less than the aggregate principal amount of revenue bonds authorized thereunder, no further revenues bonds are to be issued under any of the Existing Ordinances other than the City may hereafter issue additional revenue bonds under the Existing Ordinance adopted on December 9, 2013 (Ordinance No. F-2013-22) in an aggregate principal amount of not more than \$12,715,000, subject to the requirements of Ordinance No. F-2013-22, which additional revenue bonds thereunder would be in addition to the Bonds issued pursuant to this Ordinance.

Section 26. Amendment of Existing Ordinances. The following Existing Ordinances are being amended as set forth in this Section, which amendments the Common Council has determined and hereby finds do not adversely affect the owners of any Outstanding Bond:

(a) Each of the Existing Ordinances pursuant to which there are any Outstanding Bonds of which the Authority is the registered owner, is hereby amend to provide that the provisions of Section 15(q) and (r) herein contained are made, and shall be, applicable as contractual requirements under such Existing Ordinances, as if set forth therein; and

(b) For any revenues bonds hereafter issued by the City under the Existing Ordinance adopted on December 9, 2013 (Ordinance No. F-2013-22) that are subject to redemption at the option of the City, such bonds shall be subject to, and shall include on their face a statement, as follows: “provided, however, if the Bonds are sold to the SRF Program and registered in the name of the Indiana Finance Authority, the Bonds shall not be redeemable at the option of the City unless and until consented to by the Indiana Finance Authority.”

(c) The Existing Ordinance adopted on December 9, 2013 (Ordinance No. F-2013-22) is hereby amended to provide that any bonds hereafter issued thereunder will mature on July 1 of each year through July 1, 2037, and semiannually on January 1 and July 1 thereafter, and conforming amendments are additionally deemed to made hereby in the provision of Sections 14(b) and 17(b)(3) of the Existing Ordinance adopted on December 9, 2013 (Ordinance No. F-2013-22) so as to permit such semi-annual principal payment dates under such Sections 14(b) and 17(b)(3) requirements of the Existing Ordinance adopted on December 9, 2013 (Ordinance No. F-2013-22), each in a manner substantially as provided in the like provisions contained in this Ordinance.

(d)

This Section 26 is subject to the Authority consenting to each such amendment prior to such becoming effective.

Passed and adopted by the Common Council of the City of Evansville, Indiana on the 24 day of October 2016.



Presiding Officer

Attest:

Gaura Windhorst

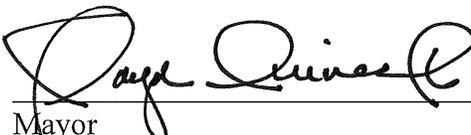
Clerk

Presented by me to the Mayor of the City of Evansville, Indiana on the 20 day of October, 2016, at the hour of 3, p.m.

Gaura Windhorst

Clerk

This ordinance approved and signed by me on the 27th day of October, 2016, at the hour of 9:45, A.m.



Mayor

Approved as to Form:

Corporation Counsel

EXHIBIT A

Description of Project

The Project consists of the acquisition, construction, installation and equipping of various improvements to the City's sewage works, including without limitation the following and related improvements: improvements to waste treatment plants and the sewage collection system; expansion of treatment plant capacity; lift station rehabilitation; sewer pipe lining; sewer main line rehabilitation; storm water redirection projects; increasing of effluent pumping capacity; solids handling improvements; anaerobic digester improvements; various other capital projects, including those relating to the City's Long Range Control Plan in accordance with a Plan required by consent decree with the EPA; projects related to Master Plan Projects; and Advance Facility Planning projects.

EXHIBIT B

(SEE ATTACHED)

STATE OF INDIANA

WASTEWATER REVOLVING LOAN PROGRAM

FINANCIAL ASSISTANCE AGREEMENT made as of this ___ day of December 2016 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 Evansville, Indiana (the “Participant”), a political subdivision as defined in I.C. 13-11-2-164 and existing under I.C. 36-4, witnesseth:

WHEREAS, the State’s Wastewater Revolving Loan Program (the “Wastewater SRF Program”) has been established in accordance with the federal Clean Water Act and the regulations promulgated thereunder, and pursuant to I.C. 13-18-13 (the “Wastewater SRF Act”), which Wastewater SRF Act also establishes the wastewater revolving loan fund (the “Wastewater SRF Fund”); and

WHEREAS, pursuant to the Wastewater SRF Act, the State was authorized to fund the Wastewater SRF Program with federal capitalization grants, together with required state matching funds therefor, and to operate the Wastewater SRF Program, and prior to May 15, 2005 so funded and operated the Wastewater 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 Wastewater SRF Program (including use and acceptance of federal capitalization grants and required state matching funds and operation of the Wastewater 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 (1) a Second Amended and Restated Financial Assistance Agreement with the Finance Authority, dated as of October 3, 2008 (which amended and restated earlier agreements dated June 30, 2004 and April 10, 2007), (2) a Financial Assistance Agreement with the Finance Authority, dated as of October 19, 2009, (3) an Amended and Restated Financial Assistance Agreement with the Finance Authority, dated as of June 9, 2011 (which amended and restated an earlier agreement dated June 30, 2010), (4) a Financial Assistance Agreement with the Finance Authority, dated as of October 1, 2011, (5) an Amended and Restated Financial Assistance Agreement with the Finance Authority, dated as of April 26, 2012 (which amended and restated an earlier agreement dated June 30, 2010), (6) a Financial Assistance Agreement with the Finance Authority, dated as of January 31, 2014, (7) a Financial Assistance Agreement with the Finance Authority, dated as of June 13, 2014 and (8) a Financial Assistance Agreement with the Finance Authority, dated as of December 15, 2014 (collectively, the “Prior Agreements”), to borrow money from the Wastewater 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 wastewater treatment system project (as more fully described herein, the “Project”) and to borrow money from the Wastewater 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) 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.

“Clean Water Act” shall mean the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251-1387, and other laws, regulations and guidance supplemental thereto (including the 2014 Appropriations Act and the Water Resources Reform and Development Act of 2014), as amended and supplemented from time to time.

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

“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 Treatment Works, 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 Wastewater SRF Program Representative and the Wastewater 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.

“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 Wastewater SRF Program within the meaning of the Wastewater 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 Wastewater SRF Program within the meaning of the Wastewater SRF Indenture.

“Financial Assistance” shall mean the financial assistance authorized by the Clean 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 Treatment Works or refinance an existing debt obligation where such debt was incurred and building of such systems began after March 7, 1985, 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 Wastewater 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 January 1, 2019 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 Treatment Works, including maintaining compliance with National Pollutant Discharge Elimination System permits, as follows:

(1) Operation shall mean the control and management of the united processes and equipment which make up the Treatment Works, 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 Wastewater SRF Indenture and held as part of the Wastewater SRF Fund.

“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 Wastewater 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 Wastewater 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.

“Treatment Works” shall mean any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of the Clean Water Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or will be used for ultimate disposal of residues resulting from such treatment and acquisition of other land, and interests in land, that are necessary for construction.

“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 Wastewater 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 Clean Water Act), as amended and supplemented from time to time.

“Wastewater SRF Fund” shall mean the wastewater revolving loan fund as established by I.C. 13-18-13-2.

“Wastewater SRF Indenture” shall mean the Sixth Amended and Restated Wastewater 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 Wastewater SRF Program) and the Trustee, 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 GLA: 111-565, For Final Credit: TAS #610026, Account Name: City of Evansville, Indiana Sewage Works, 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 Bonds will bear interest at the per annum rate of _____ One-Hundredths 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. 13-18-13-10 and -15. Interest, if any, on the Bonds will be payable on January 1 and July 1 of each year, commencing July 1, 2017. The Bonds will be in the aggregate principal amount of _____ Dollars (\$ _____). Subject to Section 2.05 and 2.06 herein, the Bonds will mature on July 1 of each year through July 1, 2037, and semiannually on January 1 and July 1 of each year thereafter, each as 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 to this Agreement (which is hereby incorporated by reference); provided, however, notwithstanding the foregoing or the terms of the Bonds to the contrary, no maturity of Bonds shall extend beyond the date which is twenty (20) years after Substantial Completion of Construction. If the maturity date for any Bonds is beyond such date, unless otherwise agreed to, such Bonds, together with accrued and unpaid interest thereon, will be due and payable on such date.

(b) 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.

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

(d) 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. Additionally costs related Planning and Design shall only be Eligible Costs upon compliance with paragraph A of the attached Exhibit D. (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 Wastewater SRF Fund as set forth in federal and State statutes, rules and regulations, including I.C. 13-18-13, SRF Policy Guidelines, the Clean 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 Wastewater 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 Treatment Works 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 Treatment Works, on a proforma basis consistent with SRF Policy Guidelines, to provide 1.25x coverage on all obligations of the Treatment Works (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 Treatment Works.

(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 Treatment Works 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 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 Treatment Works and (3) the books and other financial records of the Treatment Works, 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 Treatment Works for their useful life, or cause them to be operated and maintained for their useful life; (2) at all times maintain the Treatment Works 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 Treatment Works 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 Treatment Works, 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 Treatment Works 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 Treatment Works 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 Treatment Works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses the Treatment Works, or that in any way uses or is served by the Treatment Works, (2) establish, adjust and maintain rates and charges at a level adequate to produce and maintain sufficient revenue (including user and other charges, fees, income or revenues available to the Participant) to provide for the proper Operation and Maintenance of the Treatment Works, to comply with and satisfy all covenants contained herein and to pay all obligations of the Treatment Works 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 Treatment Works, not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the Treatment Works without the prior written consent of the Finance Authority if such undertaking would involve, commit or use the revenues of the Treatment Works; provided that the Participant may authorize and issue additional obligations, payable out of the revenues of its Treatment Works, ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions and improvements to the Treatment Works, or to refund obligations of the Treatment Works, 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 Treatment Works 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 Treatment Works 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 Treatment Works 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 Clean 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 Clean 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 Clean 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) Comply with all requirements of this Agreement applicable to the Loan (including those imposed by the attached Exhibit D).

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. 13-11-2-164 and a “participant” within the meaning of I.C. 13-11-2-151.1. The Project and the Treatment Works are subject to I.C. 36-9-23.

(b) 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.

(c) 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.

(d) 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 Treatment Works, is bound or any law, regulation, order, writ, injunction or decree of any court or governmental agency or instrumentality having jurisdiction.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) For any outstanding bonds payable from the revenues of the Treatment Works 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).

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 3.03A. Special Covenants. The Participant hereby covenants and agrees with the Finance Authority as follows:

(a) In the event of any inconsistency or conflict between the Authorizing Instrument (related to the Bonds) and the ordinances authorizing the issuance of the 2004 Replacement Bonds, the 2007 Bonds, the 2008 Bonds, the 2009 Bonds, the 2010A Bonds, the 2010B-1 Bonds, the 2010B-2 Bonds, the 2011C Bonds, the 2011D Bonds, the 2012E Bonds, the 2013A Refunding Bonds, the 2013B Bonds, the 2014A Bonds, the 2014B Bonds, the 2014C Bonds and/or the 2016A Bonds, each as defined in the Authorizing Instrument related to the Bonds (collectively, " Existing Ordinances"), the Participant agrees that the Authorizing Instrument may be enforced by the Finance Authority by reference to the terms of the Authorizing Instrument, any of the Existing Ordinances or a combination thereof.

(b) Each reference to the Sinking Fund in the Authorizing Instrument (related to the Bonds) was intended to be (and shall be) the fund known as the “Evansville Sewerage System Bond Fund” as set out in Section 14 of the Authorizing Instrument.

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 Treatment Works 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 Wastewater 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 Agreements and all other collateral agreements and understandings thereto), were amended and restated as of May 15, 2005 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 Evansville
City Hall
One NW Martin Luther King Jr. Blvd.
Room 300
Evansville, IN 47708
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 Wastewater 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 CFDA Number for the Finance Authority's Wastewater SRF Program (also known as the Clean Water SRF Loan Program) is 66.458 and the Federal Agency & Program Name is "US Environmental Protection Agency Capitalization Grant for Clean 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 EVANSVILLE, INDIANA

(A) INDIANA

FINANCE

“Participant”

AUTHORITY

By: _____

“Finance Authority”

Printed: _____

By: _____

Title: _____

James P. McGoff

Director of Environmental Programs

Attested by Finance Authority Staff:

Attest: _____

By: _____

EXHIBIT A

The Project involves the following improvements and undertakings:

- To come from PER approval letters

[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
Principal Payment Schedule

<u>Date</u>	<u>Principal Amount</u>
7/1/2017	
7/1/2018	
7/1/2019	
7/1/2020	
7/1/2021	
7/1/2022	
7/1/2023	
7/1/2024	
7/1/2025	
7/1/2026	
7/1/2027	
7/1/2028	
7/1/2029	
7/1/2030	
7/1/2031	
7/1/2032	
7/1/2033	
7/1/2034	
7/1/2035	
7/1/2036	
7/1/2037	
1/1/2038	
7/1/2038	
Total	

[End of Exhibit B]

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 (related to costs of Planning or Design being treated as Eligible Costs under this Agreement and the related defined terms) are NOT applicable to the Loan:*

“Equivalency Project” shall mean a project designated by the Finance Authority as an “equivalency project” under the Clean Water Act related to the “US Environmental Protection Agency Capitalization Grant for Clean Water State Revolving Funds” for the federal fiscal year ending September 30, 2015 (or such later federal fiscal year as the Finance Authority may otherwise designate).

“A/E Services” shall mean professional services related to the Planning or Design of the Project including for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services.

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 Clean Water Act which among other requirements requires that for costs of Planning or Design (including costs for A/E Services) to be treated as Eligible Costs under this Agreement, such services (and the related contract) are required to be negotiated in the same manner as a contract for architectural and engineering services as negotiated under chapter 11 of title 40, United States Code (as amended). In connection with any request for disbursement of the Loan that is submitted by the Participant to the Finance Authority to provide for the payment of any costs of Planning or Design (including costs for A/E Services), the Participant represents and warrants that such costs relate only to services provided under a contract negotiated in the same manner as a contract for architectural and engineering services as negotiated under chapter 11 of title 40, United States Code (as amended).

- B. *The following additional terms in this Paragraph B (related to Fiscal Sustainability Plans and the related defined terms) are applicable to the Loan if the Participant submitted its Wastewater SRF Program application to the Finance Authority (or the Department) related to the Project on or after October 1, 2014:*

“Fiscal Sustainability Plan” means in connection with a project that provides for the repair, replacement, or expansion of an existing treatment works, a plan that is consistent with SRF Policy Guidelines including applicable requirements of the Wastewater SRF Act and includes (a) an inventory of critical assets that are a part of the treatment works; (b) an evaluation of the condition and performance of inventoried assets or asset groupings; (b) a certification that the Participant has evaluated and will be implementing water and energy conservation efforts as part of the plan; and (d) a plan for

maintaining, repairing, and, as necessary, replacing the treatment works and a plan for funding such activities.

The Participant understands and acknowledges that if the Participant submitted its Wastewater SRF Program application to the Finance Authority (or the Department) related to the Project (as and when determined consistent with SRF Policy Guidelines including applicable requirements of the Wastewater SRF Act) on or after October 1, 2014, then this Paragraph B is applicable and unless the Participant has self-certified that the Participant has already developed and implemented a Fiscal Sustainability Plan that meets the requirements of this Paragraph, the Participant agrees to develop and implement a Fiscal Sustainability Plan that meets the requirements of this Paragraph B. The Participant acknowledges that its agreement to do a Fiscal Sustainability Plan as provided in this Paragraph was a condition of the Loan. The Participant further agrees to submit a certification (on and in a form as provided by the Finance Authority) related to the Participant's Fiscal Sustainability Plan prior to submitting its request for a final Loan disbursement related to the Project.

C. *The following additional terms in this Paragraph C (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 Wastewater 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 Wastewater 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 Wastewater SRF Act) as determined by the Finance Authority, in order for the Bonds to receive special interest rate treatment under the Wastewater 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.

- D. *The following additional terms in this Paragraph D (related to Non-point Source Projects and the related defined terms) are [NOT] applicable to the Loan:*

“Non-point Source 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 Wastewater SRF Program’s interest rate policies and practices using the final, actual Non-point Source 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.

“Non-point Source Expenditures” shall mean those costs and expenses incurred by the Participant that are Non-point Source Projects in order for the Bonds to receive special interest rate treatment under the Wastewater SRF Program’s interest rate policies and practices.

“Non-point Source Projects” shall mean Project components that meet the requirement of SRF Policy Guidelines and the Wastewater SRF Act to be non-point source in nature as determined by the Finance Authority.

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 non-point source project. In the event Non-point Source 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 Non-point Source 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 Non-point Source Expenditures.

[End of Exhibit D]