

3 AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY  
4 OF FORT WAYNE, INDIANA, AUTHORIZING THE CURRENT  
5 REFUNDING BY THE CITY OF CERTAIN OUTSTANDING  
6 SEWAGE WORKS REVENUE BONDS, THE ACQUISITION AND  
7 INSTALLATION OF CERTAIN IMPROVEMENTS TO THE  
8 CITY'S SEWAGE WORKS, AND THE COLLECTION,  
9 SEGREGATION AND DISTRIBUTION OF THE REVENUES OF  
10 SUCH SEWAGE WORKS AND OTHER RELATED MATTERS,  
11 AND REPEALING ORDINANCES INCONSISTENT HERewith

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

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

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

27 WHEREAS, the Common Council finds that the estimates prepared and  
28 delivered by the Consulting Engineers with respect to the costs (as defined in Indiana  
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1 Code 36-9-23-11) of the Project, and including all costs relating thereto, including  
2 the costs of issuance of bonds for the Project and BANs (as hereinafter defined) on  
3 account of the financing of all or a portion thereof, is in an amount not to exceed  
4 \$310,000,000; and

5  
6 WHEREAS, the Common Council finds that certain hereinafter described  
7 2009B Bonds of the Sewage Works may be refunded to obtain a reduction in interest  
8 payments and effect a savings to the City; that the refunding of the outstanding  
9 2009B Bonds ("Refunding"), together with redemption premium, if any, and accrued  
10 interest thereon and including all costs related to the Refunding will require funds  
11 not to exceed \$21,000,000; that the total cost of the Refunding cannot be provided  
12 for entirely out of funds of the Sewage Works now on hand and the Refunding  
13 should be accomplished by the use of certain funds on hand and the issuance of  
14 revenue bonds of the Sewage Works; and

15  
16 WHEREAS, the Common Council finds that to provide funds necessary to  
17 pay for the costs of the Project and the Refunding it will be necessary for the City to  
18 issue sewage works revenue bonds, in one or more series, and, if necessary, bond  
19 anticipation notes ("BANs"), in an aggregate principal amount not to exceed Three  
20 Hundred Thirty-one Million Dollars (\$331,000,000); and

21  
22 WHEREAS, pursuant to Ordinance No. S-65-09 adopted by the Common  
23 Council on June 9, 2009 ("2009 Bond Ordinance"), the City has heretofore issued  
24 revenue bonds payable from the net revenues of the Sewage Works, designated as  
25 "Sewage Works Revenue Bonds of 2009, Series A" ("2009A Bonds"), outstanding  
26 after August 1, 2019, in the amount of \$2,712,285, bearing interest at the rate of  
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1 0.16% and maturing in various amounts annually on August 1 in the years 2020 to  
2 and including 2030; and

3 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
4 issued revenue bonds payable from the net revenues of the Sewage Works,  
5 designated as "Sewage Works Revenue Bonds of 2009, Series B" ("2009B Bonds"),  
6 outstanding after August 1, 2019, in the amount of \$18,855,961, bearing interest at  
7 the rate of 4.16% and maturing in various amounts annually on August 1 in the years  
8 2020 to and including 2030; and

9  
10 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
11 issued revenue bonds payable from the net revenues of the Sewage Works,  
12 designated as "Sewage Works Revenue Bonds of 2011, Series A" ("2011A Bonds"),  
13 outstanding after August 1, 2019, in the amount of \$22,090,000, bearing interest at  
14 the rate of 2.80% and maturing in various amounts annually on August 1 in the years  
15 2020 to and including 2026; and

16  
17 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
18 issued revenue bonds payable from the net revenues of the Sewage Works,  
19 designated as "Sewage Works Revenue Bonds of 2011, Series B" ("2011B Bonds"),  
20 outstanding after August 1, 2019, in the amount of \$22,032,000, bearing interest at  
21 the rate of 2.29% and maturing in various amounts annually on August 1 in the years  
22 2020 to and including 2031; and

23  
24 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
25 issued revenue bonds payable from the net revenues of the Sewage Works,  
26 designated as "Sewage Works Revenue Bonds of 2012, Series A" ("2012A Bonds"),  
27 outstanding after August 1, 2019, in the amount of \$7,170,000, bearing interest at the  
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1 rate of 1.78% and maturing in various amounts annually on August 1 in the years  
2 2020 to and including 2032; and

3 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
4 issued revenue bonds payable from the net revenues of the Sewage Works,  
5 designated as "Sewage Works Revenue Bonds of 2012, Series B" ("2012B Bonds"),  
6 outstanding after August 1, 2019, in the amount of \$9,410,000, bearing interest at  
7 various rates and maturing in various amounts annually on August 1 in the years  
8 2020 to and including 2027; and

9  
10 WHEREAS, pursuant to Ordinance No. S-105-12 adopted by the Common  
11 Council on October 23, 2012 ("2012 Bond Ordinance"), the City has heretofore  
12 issued revenue bonds payable from the net revenues of the Sewage Works,  
13 designated as "Sewage Works Refunding Revenue Bonds of 2012" ("2012  
14 Refunding Bonds"), outstanding after August 1, 2019, in the amount of \$6,320,000,  
15 bearing interest at the rate of 1.45% and maturing in various amounts annually on  
16 August 1 in the years 2020 to and including 2022; and

17  
18 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
19 issued revenue bonds payable from the net revenues of the Sewage Works,  
20 designated as "Sewage Works Revenue Bonds of 2013, Series A" ("2013A Bonds"),  
21 outstanding after August 1, 2019, in the amount of \$19,325,000, bearing interest at  
22 the rate of 1.95% and maturing in various amounts annually on August 1 in the years  
23 2020 to and including 2024; and

24  
25 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
26 issued revenue bonds payable from the net revenues of the Sewage Works,  
27 designated as "Sewage Works Revenue Bonds of 2013, Series B" ("2013B Bonds"),  
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1 outstanding after August 1, 2019, in the amount of \$42,260,000, bearing interest at  
2 various rates and maturing in various amounts annually on August 1 in the years  
3 2025 to and including 2033; and

4 WHEREAS, pursuant to the 2009 Bond Ordinance, the City has heretofore  
5 issued revenue bonds payable from the net revenues of the Sewage Works,  
6 designated as "Sewage Works Revenue Bonds of 2014, Series A" ("2014A Bonds"),  
7 outstanding after August 1, 2019, in the amount of \$13,227,000, bearing interest at  
8 the rate of 2.35% and maturing in various amounts annually on August 1 in the years  
9 2020 to and including 2033; and

10  
11 WHEREAS, pursuant to Ordinance No. S-94-14 adopted by the Common  
12 Council on July 22, 2014 ("2014 Bond Ordinance"), the City has heretofore issued  
13 revenue bonds payable from the net revenues of the Sewage Works, designated as  
14 "Sewage Works Revenue Bonds of 2014, Series B" ("2014B Bonds"), outstanding  
15 after August 1, 2019, in the amount of \$58,157,000, bearing interest at the rate of  
16 3.074% and maturing in various amounts annually on August 1 in the years 2020 to  
17 and including 2033 and semiannually on February 1 and August 1 in 2034; and

18  
19 WHEREAS, pursuant to the 2014 Bond Ordinance, the City has heretofore  
20 issued revenue bonds payable from the net revenues of the Sewage Works,  
21 designated as "Taxable Sewage Works Revenue Bonds of 2014, Series C" ("2014C  
22 Bonds"), outstanding after August 1, 2019, in the amount of \$4,195,000, bearing  
23 interest at the rate of 3.074% and maturing in various amounts annually on August 1  
24 in the years 2020 to and including 2033 and semiannually on February 1 and August  
25 1 in 2034; and



1 issued revenue bonds payable from the net revenues of the Sewage Works,  
2 designated as "Sewage Works Refunding Revenue Bonds of 2017, Series A and B"  
3 ("2017 Refunding Bonds"), outstanding after August 1, 2019, in the amount of  
4 \$29,430,000, bearing interest at the rate of 2.53% and maturing in various amounts  
5 annually on August 1 in the years 2020 to and including August 1, 2030; and  
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7 WHEREAS, pursuant to Ordinance No. S-91-18 adopted by the Common  
8 Council on September 25, 2018 ("2018 Bond Ordinance") (together with the 2009  
9 Bond Ordinance, the 2012 Bond Ordinance, the 2014 Ordinance, the 2016 Ordinance  
10 and the 2017 Ordinance, collectively, the "Prior Ordinances"), the City has  
11 heretofore issued revenue bonds payable from the net revenues of the Sewage  
12 Works, designated as "Sewage Works Revenue Bonds of 2018, Series B" ("2018B  
13 Bonds" and with the 2009A Bonds, the 2009B Bonds, the 2011A Bonds, the 2011B  
14 Bonds, the 2012A Bonds, the 2012B Bonds, the 2012 Refunding Bonds, the 2013A  
15 Bonds, the 2013B Bonds, the 2014A Bonds, 2014B Bonds, the 2014C Bonds, the  
16 2016A Bonds, the 2016B Bonds, the 2016 Refunding Bonds and the 2017 Refunding  
17 Bonds, collectively, the "Prior Bonds"), outstanding after August 1, 2019, in the  
18 amount of \$21,565,000, bearing interest at the rate of 2.86% and maturing in various  
19 amounts annually on August 1 in the years 2020 to and including August 1, 2033 and  
20 semiannually on February 1 and August 1 in the years 2034 to and including August  
21 1, 2039; and  
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23  
24 WHEREAS, the Prior Bonds each rank on a parity with each other and each  
25 constitutes a first charge against the net revenues of the Sewage Works; and  
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27 WHEREAS, the Common Council finds that the 2009B Bonds (hereinafter,  
28 "Refunded Bonds") should be refunded pursuant to the provisions of IC 5-1-5 to  
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1 enable the City to obtain a reduction in interest payments and effect a savings to the  
2 City; and

3 WHEREAS, Section 17 of the 2009 Ordinance, Section 18 of the 2012 Bond  
4 Ordinance, Section 17 of the 2014 Bond Ordinance, Section 17 of the 2016 Bond  
5 Ordinance, Section 18 of the 2017 Bond Ordinance and Section 17 of the 2018 Bond  
6 Ordinance, each authorize the issuance of additional revenue bonds ranking on a  
7 parity basis with the Prior Bonds for such purposes, so long as certain conditions are  
8 met; and  
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10 WHEREAS, the Common Council has been advised by the City's municipal  
11 advisor and now finds that all conditions precedent to the adoption of an ordinance  
12 authorizing the issuance of revenue bonds on a parity basis with the Prior Bonds to  
13 provide the necessary funds to be applied to the costs of the Project and the  
14 Refunding and all authorized costs relating thereto have been complied with in  
15 accordance with the provisions of the Prior Ordinances; and  
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17 WHEREAS, the City shall enter into one or more Financial Assistance  
18 Agreements with the Indiana Finance Authority ("Authority") as part of its  
19 wastewater loan program established and existing pursuant to IC 5-1.2-1 through IC  
20 5-1.2-4 and IC 5-1.2-10 ("SRF Program"), pertaining to all or a portion of the Project  
21 and the financing thereof ("Financial Assistance Agreement"); and  
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23 WHEREAS, the Common Council has been advised that it may be cost  
24 efficient to purchase one or more debt service reserve sureties for the bonds  
25 authorized herein; and  
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27 WHEREAS, the Common Council desires to authorize the issuance of BANs  
28 hereunder, if necessary, in one or more series, payable solely from the proceeds of  
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1 the bonds issued hereunder and to authorize the refunding of the BANs, if issued;  
2 and

3 WHEREAS, the City reasonably expects to reimburse certain preliminary  
4 costs of the Project with proceeds of debt to be incurred by the City in an amount not  
5 to exceed \$310,000,000; and

6  
7 WHEREAS, the Common Council therefore seeks to authorize the issuance  
8 of revenue bonds and BANs to finance the Project and to refund the Refunded Bonds  
9 pursuant to the provisions of IC 5-1-5 and IC 36-9-23, each as in effect on the date of  
10 delivery of the bonds authorized herein (collectively, "Act"), subject to and  
11 dependent upon the terms and conditions hereinafter set forth in this ordinance;

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13 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL  
14 OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

15 Section 1. Authorization of the Project and the Refunding;  
16 Reimbursement. The City, acting by and through the Board and as the owner and  
17 operator of the Sewage Works for the collection and treatment of sewage and other  
18 wastes, hereby orders, authorizes and directs the Board to proceed with the Project,  
19 pursuant to the Act and in accordance with the plans, specifications and cost  
20 estimates prepared and filed with the Board by the Consulting Engineers, which  
21 plans, specifications and cost estimates are hereby adopted and approved and, by  
22 reference, incorporated fully into this ordinance, and two copies of which are now  
23 on file or upon completion, shall be placed on file, in the office of the Board and open  
24 for public inspection. The actions of the Board in connection with the Project are  
25 hereby authorized, approved, ratified and confirmed.  
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1 designated name shall include the term "Taxable" as the first word in the designated  
2 name.

3 The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana  
4 Bond Bank, pursuant to IC 5-1.2-1 through IC 5-1.2-4 and IC 5-1.2-10 if sold to the  
5 Authority, or pursuant to IC 5-1-14-5 if sold to a financial institution or any other  
6 purchaser. The City shall pledge to the payment of the principal of and interest on  
7 the BANs the proceeds from the issuance of the bonds pursuant to and in the manner  
8 prescribed by the Act. The bonds will be payable out of and constitute a first charge  
9 against the Net Revenues (herein defined as gross revenues, inclusive of System  
10 Development Charges (as hereinafter defined), after deduction only for the payment  
11 of the reasonable expenses of operation, repair and maintenance, excluding transfers  
12 for payments in lieu of property taxes ("PILOTs")) of the Sewage Works of the City,  
13 on a parity with the Prior Bonds. For purposes of this ordinance, "System  
14 Development Charges" shall mean the proceeds and balances from any non-recurring  
15 charges such as tap fees, subsequent connector fees, capacity or contribution fees,  
16 and other similar one-time charges that are available for deposit under this  
17 ordinance; provided, however, that any System Development Charges that are  
18 enacted under IC 36-9-23-29, shall be considered as Net Revenues of the sewage  
19 works.  
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23 (b) In accordance with the Act and for the purpose of providing funds  
24 with which to pay the costs of the Project and the cost of the Refunding, providing  
25 funds for the Reserve Accounts (as hereinafter defined), all authorized costs relating  
26 to the Project and the Refunding and the financing, including the costs of issuance of  
27 the Bonds, as hereinafter defined, on account thereof, and any premiums for debt  
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1 service reserve sureties, the City shall issue and sell its sewage works revenue bonds,  
2 in one or more series, in the aggregate principal amount not to exceed Three  
3 Hundred Thirty-one Million Dollars (\$331,000,000).

4 The bonds shall be issued in one or more series designated as the "[Taxable]  
5 Sewage Works Revenue [[and] Refunding Revenue] Bonds of 20\_\_\_, [Series \_\_\_]"  
6 to be completed with the year in which issued and the appropriate series designation,  
7 if any (collectively, "Bonds"). Each series of Bonds shall be issued as fully  
8 registered bonds in the denomination of One Dollar (\$1) or integral multiples thereof  
9 if sold to the Authority as part of its SRF Program, or in denominations of \$5,000 or  
10 integral multiples thereof if sold to any other purchaser. If the Bonds are sold to a  
11 sophisticated investor, the Bonds may be issued in minimum denominations of  
12 \$100,000 and integral multiples of \$5,000 thereafter. Each series of Bonds shall be  
13 sold at a price not less than par value if sold to the Authority as part of its SRF  
14 Program or not less than 99% of the par value thereof if sold to any other purchaser.  
15 The Bonds shall bear an original issue date which shall be the date of issuance of  
16 the Bonds. The Bonds shall be numbered consecutively from 1 up; the Bonds  
17 issued to refund the Refunded Bonds ("Refunding Bonds") shall bear interest at a  
18 rate or rates not exceeding four percent (4.0%) per annum and the Bonds issued to  
19 pay all or a portion of the Project ("New Money Bonds") shall bear interest at a  
20 rate or rates not exceeding six percent (6%) per annum, the exact rate or rates to be  
21 determined by bidding or through negotiation or competitive bidding. Interest on the  
22 Bonds shall be calculated on the basis of twelve (12) thirty (30)-day months for a  
23 three hundred and sixty (360)-day year and shall be payable semiannually on  
24 February 1 and August 1 in each year, commencing on the first February 1 or the  
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1 first August 1, following the original date of the Bonds as determined by the  
2 Controller, with the advice of the City's municipal advisor. The principal of the  
3 Bonds shall mature annually on August 1 of each year, provided that beginning on  
4 February 1, 2034, principal shall be payable semiannually on February 1 and August  
5 1. The Refunding Bonds shall mature no later than August 1, 2030 and the New  
6 Money Bonds shall mature no later than August 1, 2060. The New Money Bonds  
7 shall mature in amounts that either (i) produce as level annual debt service as  
8 practicable with \$5,000 denominations, taking into account the annual debt service  
9 on the Prior Bonds and all other series of Bonds issued under this ordinance, (ii)  
10 produce forecasted coverage to allow the successful marketing of the New Money  
11 Bonds, or (iii) allow the City to meet the coverage and/or amortization requirements  
12 of the SRF Program. Such debt service schedule for any New Money Bonds sold to  
13 the Authority as part of its SRF Program shall be finalized and set forth in the  
14 Financial Assistance Agreement and shall provide a final maturity for the New  
15 Money Bonds ending no later than the number of years after substantial completion  
16 of the Project as determined and set forth in the Financial Assistance Agreement.  
17 The Refunding Bonds shall mature in amounts that either (i) maintain the  
18 approximate annual debt service less the annual savings as a result of the refunding;  
19 or (ii) maximize savings.

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23 All or a portion of the Bonds may be issued as one or more term bonds, upon  
24 election of the purchaser. Such term bonds shall have a stated maturity or maturities  
25 on February 1 or August 1 in the years as determined by the successful bidder, but in  
26 no event later than the final serial maturity date of the Bonds as determined in the  
27 above paragraph. The term bonds shall be subject to mandatory sinking fund  
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1 redemption and final payment(s) at maturity at 100% of the principal amount thereof,  
2 plus accrued interest to the redemption date, on principal payment dates which are  
3 hereinafter determined in accordance with the above paragraph.

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

6 Notwithstanding anything in this ordinance to the contrary, any series of  
7 Bonds issued hereunder, may bear interest that is taxable and included in the gross  
8 income of the owners thereof. If any such Bonds are issued on a taxable basis, the  
9 designated name shall include the term "Taxable" as the first word in the designated  
10 name.  
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12 Notwithstanding anything contained herein, the City may accept any other  
13 forms of financial assistance, as and if available, from the SRF Program (including  
14 without limitation any forgivable loans, grants or other assistance whether available  
15 as an alternative to any Bond or BAN related provision otherwise provided for herein  
16 or as a supplement or addition thereto). If required by the SRF Program to be  
17 eligible for such financial assistance, one or more of the series of the Bonds issued  
18 hereunder may be issued on a basis such that the payment of the principal of or  
19 interest on such series of Bonds is junior and subordinate to the payment of the  
20 principal of and interest on other series of Bonds issued hereunder (and/or any other  
21 revenue bonds secured by a pledge of Net Revenues, whether now outstanding or  
22 hereafter issued), all as provided by the terms of such series of Bonds as modified  
23 pursuant to this authorization. Such financial assistance, if any, shall be as provided  
24 in the Financial Assistance Agreement and the Bonds of each series of Bonds issued  
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1 hereunder (including any modification made pursuant to the authorization in this  
2 paragraph to the form of Bond otherwise contained herein).

3 (c) The Mayor and Controller are authorized, on behalf of the City, to  
4 select and appoint a qualified financial institution to serve as Registrar and Paying  
5 Agent for the Bonds, which Registrar is hereby charged with the responsibility of  
6 authenticating the Bonds ("Registrar" or "Paying Agent"). The Controller is hereby  
7 authorized, on behalf of the Board, to enter into such agreements or understandings  
8 with such institution as will enable the institution to perform the services required of  
9 a Registrar and Paying Agent. The Controller is further authorized to pay such fees  
10 as the institution may charge for the services it provides as Registrar and Paying  
11 Agent, and such fees may be paid from the Sewage Works Sinking Fund established  
12 to pay the principal of and interest on the Bonds and fiscal agency charges.  
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15 As to the BANS and as to the Bonds, if any purchaser does not object to such  
16 designation, the Controller may serve as Registrar and Paying Agent and is hereby  
17 charged with the duties of a Registrar and Paying Agent.

18 If any Bonds or BANS are sold to the Authority as part of its SRF Program,  
19 the principal of and interest thereon shall be paid by wire transfer to such financial  
20 institution if and as directed by the Authority on the due date of such payment or, if  
21 such due date is a day when financial institutions are not open for business, on the  
22 business day immediately after such due date. So long as the Authority is the owner  
23 of the Bonds or BANS, such Bonds and BANS shall be presented for payment as  
24 directed by the Authority.  
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26 If wire transfer payment is not required and for any Bonds not sold to the  
27 Authority, the principal of the Bonds shall be payable at the principal office of the  
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1 in writing, and thereupon a new fully registered Bond or Bonds in the same  
2 aggregate principal amount and of the same maturity shall be executed and delivered  
3 in the name of the transferee or transferees or the registered owner, as the case may  
4 be, in exchange therefor. The costs of such transfer or exchange shall be borne by  
5 the City. The City and the Registrar and Paying Agent for the Bonds may treat and  
6 consider the person in whose name such Bonds are registered as the absolute owner  
7 thereof for all purposes including for the purpose of receiving payment of, or on  
8 account of, the principal thereof and interest due thereon.

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

25 Upon the appointment of any successor registrar and paying agent by the  
26 City, the Controller is authorized and directed to enter into such agreements and  
27 understandings with such successor registrar and paying agent as will enable the  
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1 institution to perform the services required of a registrar and paying agent for the  
2 Bonds. The Controller is further authorized to pay such fees as the successor  
3 registrar and paying agent may charge for the services it provides as registrar and  
4 paying agent and such fees may be paid from the Sewage Works Sinking Fund as set  
5 forth in Section 13 hereof. Any predecessor registrar and paying agent shall deliver  
6 all of the Bonds and any cash or investments in its possession with respect thereto,  
7 together with the registration books, to the successor registrar and paying agent.  
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9 Interest on any Bonds sold to the Authority as part of its SRF Program shall  
10 be payable from the date or dates of payments made by the Authority as part of its  
11 purchase of the Bonds as set forth in the Financial Assistance Agreement. Interest  
12 on all other Bonds shall be payable from the interest payment date to which interest  
13 has been paid next preceding the authentication date of the Bonds unless the Bonds  
14 are authenticated after the Record Date and on or before such interest payment date  
15 in which case they shall bear interest from such interest payment date, or unless the  
16 Bonds are authenticated on or before the Record Date preceding the first interest  
17 payment date, in which case they shall bear interest from the original date until the  
18 principal shall be fully paid.  
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21 (d) The City has determined that it may be beneficial to have the Bonds  
22 held by a central depository system pursuant to an agreement between the City and  
23 The Depository Trust Company, New York, New York ("Depository Trust  
24 Company") and have transfers of the Bonds effected by book-entry on the books of  
25 the central depository system ("Book Entry System"). The Bonds may be initially  
26 issued in the form of a separate single authenticated fully registered bond for the  
27 aggregate principal amount of each separate maturity of the Bonds. In such case,  
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1 upon initial issuance, the ownership of such book-entry Bonds shall be registered in  
2 the register kept by the Registrar in the name of CEDE & CO., as nominee of the  
3 Depository Trust Company.

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

16 No person other than the Depository Trust Company shall receive an  
17 authenticated Bond evidencing an obligation of the City to make payments of the  
18 principal of and premium, if any, and interest on the Bonds pursuant to this  
19 ordinance. The City and the Registrar and Paying Agent may treat as and deem the  
20 Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of  
21 the Bonds for the purpose of (i) payment of the principal of and premium, if any, and  
22 interest on such Bonds; (ii) giving notices of redemption and other notices permitted  
23 to be given to bondholders with respect to such Bonds; (iii) registering transfers with  
24 respect to such Bonds; (iv) obtaining any consent or other action required or  
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1 permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes  
2 whatsoever. The Paying Agent shall pay all principal of and premium, if any, and  
3 interest on the Bonds only to or upon the order of the Depository Trust Company,  
4 and all such payments shall be valid and effective fully to satisfy and discharge the  
5 City's and the Paying Agent's obligations with respect to principal of and premium,  
6 if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon  
7 delivery by the Depository Trust Company to the City of written notice to the effect  
8 that the Depository Trust Company has determined to substitute a new nominee in  
9 place of CEDE & CO., and subject to the provisions herein with respect to consents,  
10 the words "CEDE & CO." in this resolution shall refer to such new nominee of the  
11 Depository Trust Company. Notwithstanding any other provision hereof to the  
12 contrary, so long as any Bond is registered in the name of CEDE & CO., as nominee  
13 of the Depository Trust Company, all payments with respect to the principal of and  
14 premium, if any, and interest on such Bonds and all notices with respect to such  
15 Bonds shall be made and given, respectively, to the Depository Trust Company as  
16 provided in a representation letter from the City to the Depository Trust Company.  
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19           Upon receipt by the City of written notice from the Depository Trust  
20 Company to the effect that the Depository Trust Company is unable or unwilling to  
21 discharge its responsibilities and no substitute depository willing to undertake the  
22 functions of the Depository Trust Company hereunder can be found which is willing  
23 and able to undertake such functions upon reasonable and customary terms, then the  
24 Bonds shall no longer be restricted to being registered in the register of the City kept  
25 by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust  
26 Company, but may be registered in whatever name or names the bondholders  
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1 transferring or exchanging the Bonds shall designate, in accordance with the  
2 provisions of this resolution.

3 If the City determines that it is in the best interest of the bondholders that  
4 they be able to obtain certificates for the fully registered Bonds, the City may notify  
5 the Depository Trust Company and the Registrar, whereupon the Depository Trust  
6 Company will notify the Beneficial Owners of the availability through the  
7 Depository Trust Company of certificates for the Bonds. In such event, the Registrar  
8 shall prepare, authenticate, transfer and exchange certificates for the Bonds as  
9 requested by the Depository Trust Company and any Beneficial Owners in  
10 appropriate amounts, and whenever the Depository Trust Company requests the City  
11 and the Registrar to do so, the Registrar and the City will cooperate with the  
12 Depository Trust Company by taking appropriate action after reasonable notice (i) to  
13 make available one or more separate certificates evidencing the fully registered  
14 Bonds of any Beneficial Owner's Depository Trust Company account or (ii) to  
15 arrange for another securities depository to maintain custody of certificates for and  
16 evidencing the Bonds.  
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19 If the Bonds shall no longer be restricted to being registered in the name of  
20 the Depository Trust Company, the Registrar shall cause the Bonds to be printed in  
21 blank in such number as the Registrar shall determine to be necessary or customary;  
22 provided, however, that the Registrar shall not be required to have such Bonds  
23 printed until it shall have received from the City indemnification for all costs and  
24 expenses associated with such printing.  
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26 In connection with any notice or other communication to be provided to  
27 bondholders by the City or the Registrar with respect to any consent or other action  
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1 to be taken by bondholders, the City or the Registrar, as the case may be, shall  
2 establish a record date for such consent or other action and give the Depository Trust  
3 Company notice of such record date not less than fifteen (15) calendar days in  
4 advance of such record date to the extent possible.

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

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23 (e) In the event any Bond is mutilated, lost, stolen or destroyed, the  
24 City may cause to be executed and the Registrar may authenticate a new Bond of  
25 like date, maturity, series and denomination as the mutilated, lost, stolen or destroyed  
26 Bond, which new Bond shall be marked in a manner to distinguish it from the Bond  
27 for which it was issued; provided, that in the case of any mutilated Bond, such  
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1 mutilated Bond shall first be surrendered to the Registrar, and in the case of any  
2 lost, stolen or destroyed Bond there shall be first furnished to the Registrar  
3 evidence of such loss, theft or destruction satisfactory to the City and the Registrar,  
4 together with indemnity satisfactory to them. In the event that any such mutilated,  
5 lost, stolen or destroyed Bond shall have matured or been called for redemption,  
6 instead of causing to be issued a duplicate Bond, the Registrar and Paying Agent  
7 may pay the same upon surrender of the mutilated Bond or upon satisfactory  
8 indemnity and proof of loss, theft or destruction in the case of a lost, stolen or  
9 destroyed Bond. The City and the Registrar and Paying Agent may charge the owner  
10 of any such Bond with their reasonable fees and expenses in connection with the  
11 above. Every substitute Bond issued by reason of any Bond being lost, stolen or  
12 destroyed shall, with respect to such Bond, constitute a substitute contractual  
13 obligation of the City pursuant to this ordinance, whether or not the lost, stolen or  
14 destroyed Bond shall be found at any time, and shall be entitled to all the benefits  
15 of this ordinance, equally and proportionately with any and all other Bonds duly  
16 issued hereunder.

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19 In the event that any Bond is not presented for payment or redemption on the  
20 date established therefor, the City may deposit in trust with the Paying Agent an  
21 amount sufficient to pay such Bond or the redemption price thereof, as appropriate,  
22 and thereafter the owner of such Bond shall look only to the funds so deposited in  
23 trust with the Paying Agent for payment and the City shall have no further  
24 obligation or liability with respect thereto.  
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1 redemption; provided, however, if the Bonds are sold to the SRF Program and  
2 registered in the name of the Authority, the Bonds shall not be redeemable at the  
3 option of the City unless and until consented to by the Authority. The exact  
4 redemption features shall be established by the Controller, with the advice of the  
5 City's municipal advisor, prior to the sale of the Bonds.  
6

7 If any Bond is issued as a term bond, the Paying Agent shall credit against  
8 the mandatory sinking fund requirement for the Bonds maturing as term bonds, and  
9 corresponding mandatory redemption obligation, in the order determined by the City,  
10 any Bonds maturing as term bonds which have previously been redeemed (otherwise  
11 than as a result of a previous mandatory redemption requirement) or delivered to the  
12 Registrar for cancellation or purchased for cancellation by the Paying Agent and not  
13 theretofore applied as a credit against any redemption obligation. Each Bond  
14 maturing as a term bond so delivered or canceled shall be credited by the Paying  
15 Agent at 100% of the principal amount thereof against the mandatory sinking fund  
16 obligation on such mandatory sinking fund date, and any excess of such amount shall  
17 be credited on future redemption obligations, and the principal amount of the Bonds  
18 to be redeemed by operation of the mandatory sinking fund requirement shall be  
19 accordingly reduced; provided, however, the Paying Agent shall credit only such  
20 Bonds maturing as term bonds to the extent received on or before forty-five (45)  
21 days preceding the applicable mandatory redemption date.  
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24 Each authorized denomination amount or each principal amount of \$5,000 (if  
25 \$1.00 denominations are not used) shall be considered a separate bond for purposes  
26 of optional and mandatory redemption. If less than an entire maturity is called for  
27 redemption, the Bonds to be called for redemption shall be selected by lot by the  
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1 Registrar. If some Bonds are to be redeemed by optional redemption and mandatory  
2 sinking fund redemption on the same date, the Registrar shall select by lot the Bonds  
3 for optional redemption before selecting the Bonds by lot for the mandatory sinking  
4 fund redemption.

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

20 Section 4. Execution and Authentication of the Bonds and BANs. The  
21 Bonds and BANs shall be executed in the name of the City by the manual or  
22 facsimile signature of the Mayor of the City ("Mayor"), countersigned by the manual  
23 or facsimile signature of the Controller and attested by the manual or facsimile  
24 signature of the Clerk of the City ("Clerk"), who shall cause the seal of the City or a

1 facsimile thereof to be affixed to each of the Bonds and BANs. These officials, by  
2 the signing of a Signature and No Litigation Certificate, shall adopt as and for their  
3 own proper signatures their facsimile signatures appearing on the Bonds and BANs.  
4 The Bonds shall be authenticated by the manual signature of the Registrar, and no  
5 Bond shall be valid or become obligatory for any purpose until the certificate of  
6 authentication thereon has been so executed. In case any official whose signature  
7 appears on any Bond or BAN shall cease to be such official before the delivery of  
8 such Bond or BAN, the signature of such official shall nevertheless be valid and  
9 sufficient for all purposes, the same as if such official had been in office at the time  
10 of such delivery. Subject to the provisions of this ordinance regarding the  
11 registration of the Bonds, the Bonds shall be fully negotiable instruments under  
12 the laws of the State of Indiana.  
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15 Section 5. Security and Sources of Payment for the Bonds. The Bonds,  
16 as and to the extent paid for and delivered to the purchaser thereof as to both  
17 principal and interest, shall be valid and binding special revenue obligations of the  
18 City, payable solely from and secured by an irrevocable pledge of and constituting  
19 a first charge upon all of the Net Revenues to be set aside into the Sewage Works  
20 Sinking Fund as herein provided and shall rank on a parity with the Prior Bonds.  
21 The City shall not be obligated to pay the Bonds or the interest thereon except from  
22 the Net Revenues of the Sewage Works, and the Bonds shall not constitute an  
23 indebtedness of the City within the meaning of the provisions and limitations of the  
24 constitution of the State of Indiana.  
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26 Section 6. Form of the Bonds. The form and tenor of the Bonds shall  
27 be substantially as set forth in Exhibit B attached hereto and incorporated herein as if  
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1 set forth at this place (with all blanks to be filled in properly and all necessary  
2 additions and deletions to be made prior to the delivery thereof).

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

3 (b) If any Bonds are sold by public sale, prior to the sale of the Bonds,  
4 the Controller shall cause to be published either (i) a notice of bond sale in the  
5 newspaper or newspapers published in the City which meet the requirements of IC 5-  
6 3-1, two times, at least one week apart, the first publication made at least fifteen (15)  
7 days before the date of the sale and the second publication being made at least three  
8 (3) days before the date of the sale, or (ii) a notice of intent to sell in the newspaper  
9 or newspapers published in the City which meet the requirements of IC 5-3-1 and the  
10 *Court & Commercial Record*, all in accordance with IC 5-1-11 and IC 5-3-1. The  
11 notice of such sale or a summary thereof may also be published in *The Bond Buyer*,  
12 a financial journal published in the City and State of New York and/or in other  
13 publications, in the discretion of the Controller. The notice shall state the character  
14 and amount of the Bonds, the maximum rate of interest thereon, the terms and  
15 conditions upon which bids will be received and the sale made, and such other  
16 information as the Controller and the attorneys employed by the City shall deem  
17 advisable and any summary notice may contain any information deemed so  
18 advisable. The notice will also state that the winning bidder will agree to assist the  
19 City in establishing the issue price of the Bonds under Treas. Reg. Section 1.148-1(f)  
20 ("Issue Price Regulation"). The criteria for establishing the issue price under the  
21 Issue Price Regulation shall be set forth in the preliminary Official Statement and/or  
22 the bid form. The notice may provide, among other things, that electronic bidding  
23 will be permitted and that the successful bidder shall be required to submit a certified  
24 or cashier's check or a wire transfer in an amount equal to 1% of the principal  
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1 amount of the Bonds described in the notice to guarantee performance on the part of  
2 the bidder, not later than 3:30 p.m. (Fort Wayne time) on the next business day  
3 following the award. In the event the successful bidder shall fail or refuse to accept  
4 delivery of the Bonds and pay for the same as soon as the Bonds are ready for  
5 delivery, or at the time fixed in the notice of sale, then said check and the proceeds  
6 thereof shall be the property of the City and shall be considered as its liquidated  
7 damages on account of such default. Bidders for the Bonds will be required to name  
8 the rate or rates of interest which the Bonds are to bear, not exceeding the maximum  
9 rate hereinbefore fixed, and such interest rate or rates shall be in multiples of one  
10 eighth (1/8), one-twentieth (1/20) or one-hundredth (1/100) of one percent (1%).  
11 The notice may provide that the rate bid on a maturity shall be equal to or greater  
12 than the rate bid on the immediately preceding maturity. No conditional bid or bid  
13 for less than 99% of the face amount of the Bonds will be considered. The opinion  
14 of Ice Miller LLP, bond counsel of Indianapolis, Indiana, approving the legality of  
15 the Bonds, will be furnished to the purchaser at the expense of the City.  
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18 The Bonds shall be awarded by the Controller to the best bidder who has  
19 submitted his bid in accordance with the terms of this ordinance, IC 5-1-11 and the  
20 notice of sale. The best bidder will be the one who offers the lowest net interest cost  
21 to the City, to be determined by computing the total interest on all of the Bonds to  
22 their maturities and adding thereto the discount bid, if any, and deducting the  
23 premium bid, if any. The right to reject any and all bids shall be reserved. If an  
24 acceptable bid is not received on the date of sale, the sale may be continued from day  
25 to day thereafter without further advertisement for a period of thirty (30) days,  
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1 during which time no bid which provides a higher net interest cost to the City than  
2 the best bid received at the time of the advertised sale will be considered.

3 Distribution of an Official Statement (preliminary and final) prepared by  
4 Baker Tilly Municipal Advisors, LLC, on behalf of the City, is hereby approved and  
5 the Mayor or the Controller are authorized and directed to execute the Official  
6 Statement on behalf of the City in a form consistent with this ordinance. The Mayor  
7 or the Controller are hereby authorized to designate the preliminary Official  
8 Statement as "nearly final" for purposes of Rule 15c2-12 promulgated by the  
9 Securities and Exchange Commission ("Rule"). In lieu of delivering an Official  
10 Statement, the City may obtain an investment letter from the purchaser which  
11 satisfies federal and state securities laws applicable to such Bonds.  
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14 (c) If necessary to comply with the Rule, the City shall execute and  
15 deliver a form of Continuing Disclosure Undertaking ("Disclosure Undertaking").  
16 The Mayor or the Controller are hereby authorized and directed to complete and  
17 execute the Disclosure Undertaking on behalf of the City, if necessary to comply  
18 with the Rule. Notwithstanding any other provisions of this ordinance, failure of the  
19 City to comply with the Disclosure Undertaking shall not be considered an event of  
20 default under the Bonds or this ordinance. If required by the Authority, in  
21 connection with the SRF Program, the City is authorized to execute and deliver a  
22 form of Disclosure Undertaking in a form provided by the SRF Program. The Mayor  
23 and the Controller, together or individually, are authorized to complete and execute  
24 the Disclosure Undertaking on behalf of the City in connection with any series of  
25 Bonds sold to the Authority as part of the SRF Program.  
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1 (d) As an alternative to public sale, the Controller may negotiate the sale  
2 of any series of Bonds to the Authority as a part of its SRF Program. The Mayor and  
3 the Controller are hereby authorized to: (i) submit an application to the Authority as  
4 a part of its SRF Program; (ii) execute one or more Financial Assistance Agreements  
5 with the Authority with terms conforming to this ordinance; and (iii) sell such Bonds  
6 upon such terms as are acceptable to the Mayor and the Controller consistent with  
7 the terms of this ordinance. The SRF Program has provided a substantially final  
8 form of Financial Assistance Agreement, attached hereto as Exhibit C and  
9 incorporated herein by reference, which is hereby approved by the Common Council,  
10 and the Mayor and Controller are hereby authorized to execute and deliver the same,  
11 and to approve any changes in form or substance to the Financial Assistance  
12 Agreement, which are consistent with the terms of this ordinance, such changes to be  
13 conclusively evidenced by its execution.

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16 (e) The Mayor and the Controller are hereby authorized to negotiate the  
17 sale of any series of Refunding Bonds in accordance with a Bond Purchase  
18 Agreement or Bond Placement Agreement ("Purchase Agreement") between the City  
19 and the purchaser, the purchasers or the placement agent of the Refunding Bonds.  
20 The Mayor and the Controller are authorized to execute the Purchase Agreement and  
21 deliver the Refunding Bonds to the purchaser of the Refunding Bonds so long as  
22 their terms are consistent with this ordinance. Such Purchase Agreement shall  
23 establish a final principal amount, interest rate, maturity schedule, optional  
24 redemption features and term bond mandatory redemptions, if any. The Purchase  
25 Agreement will also state that the purchaser or placement agent, as the case may be,  
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1 will agree to assist the City in establishing the issue price of the Refunding Bonds  
2 under Treas. Reg. Section 1.148-1(f).

3 (f) If required for the Refunding, the Controller is hereby authorized to  
4 appoint a financial institution to serve as escrow trustee ("Escrow Trustee") for the  
5 Refunded Bonds in accordance with the terms of the Escrow Agreement, between  
6 the City and the Escrow Trustee ("Escrow Agreement"). The Mayor and the  
7 Controller are hereby authorized and directed to complete, execute and attest the  
8 same on behalf of the City so long as its provisions are consistent with this  
9 ordinance.  
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11 (g) The execution, by either the Mayor, the Controller, any purchaser or  
12 placement agent of the Refunding Bonds or the City's municipal advisor, of a  
13 subscription for United States Treasury Obligations -- State and Local Government  
14 Series for investments of proceeds of the Refunding Bonds to be held under the  
15 Escrow Agreement in a manner consistent with this ordinance is hereby approved.  
16

17 Section 8. Opinion of Bond Counsel. Prior to the delivery of any series  
18 of Bonds or BANs, the City shall obtain a legal opinion as to the validity of the  
19 Bonds and BANs from Ice Miller LLP, Indianapolis, Indiana, bond counsel for the  
20 City, with such opinion to be furnished to the purchasers of the Bonds and BANs  
21 at the expense of the City. The costs of obtaining any surety, other credit  
22 enhancement and/or credit ratings, together with bond counsel's fee in preparing  
23 and delivering such opinions and in the performance of related services in  
24 connection with the issuance, sale and delivery of the Bonds and BANs, shall be  
25 considered as a part of the cost of the Project or the Refunding and shall be paid out  
26 of the proceeds of the Bonds or BANs, as the case may be.  
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1 any amount then remaining from the proceeds of the Refunding Bonds to the Sinking  
2 Fund herein continued.

3 Section 10. Use of Proceeds of the Bonds and BANs; Costs of Issuance;  
4 City of Fort Wayne Sewage Works Construction Account. The proceeds from the  
5 sale of the Bonds and BANs shall be deposited and applied as follows:  
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7 (a) The accrued interest, if any, and any premium received at the time of  
8 delivery of the Bonds shall be deposited in the Sewage Works Sinking Fund  
9 continued by this ordinance. Any proceeds of the Bonds to be used for deposits into  
10 the Reserve Accounts shall be deposited into either the hereinafter defined 2016  
11 Reserve Account, the Reserve Account or the SRF Reserve Account, as the case  
12 may be.  
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14 (b) The remaining proceeds from the sale of the Bonds, after allocating  
15 the amount needed to accomplish the refunding of the Refunded Bonds in  
16 accordance with Section 9 and to the extent not used to refund the BANs, and BANs  
17 issued to finance the Project shall be deposited in a bank or banks which are legally  
18 qualified depositories for the funds of the City, in the special account to be  
19 designated as "City of Fort Wayne Sewage Works Construction Account"  
20 ("Construction Account"). All funds deposited to the credit of the Sewage Works  
21 Sinking Fund or Construction Account shall be deposited, held, secured or invested  
22 in accordance with the laws of the State of Indiana relating to the depositing,  
23 holding, securing or investing of public funds, including particularly IC 5-13, as  
24 amended and supplemented, and as applicable, pursuant to IC 5-1.2-1 through IC 5-  
25 1.2-4 and IC 5-1.2-10. Amounts in the Construction Account shall be expended only  
26 for the purpose of paying the costs of the Project, as described in this ordinance and  
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1 in the Act, refunding the BANs if issued, together with all authorized costs relating  
2 thereto, including the costs of issuance of the Bonds and BANs, and as otherwise  
3 permitted or required by the Act and this ordinance. The cost of obtaining the  
4 services of Ice Miller LLP, the City Attorney and Baker Tilly Municipal Advisors,  
5 LLC, shall be considered as a part of the cost of the Project on account of which the  
6 BANs and Bonds are issued. Any balance or balances remaining unexpended in the  
7 Construction Account after completion of the Project, which are not required to meet  
8 unpaid obligations incurred in connection with the construction of the Project, shall  
9 either (1) be paid into the Sewage Works Sinking Fund and used solely for the  
10 purposes of the Sewage Works Sinking Fund or (2) be used for the same purpose or  
11 type of project for which the Bonds were originally issued, all in accordance with  
12 Indiana Code 5-1-13, as amended. Pursuant to the Act, the owners of the Bonds  
13 shall be entitled to a lien on the proceeds of the Bonds until such proceeds are  
14 applied as required by this ordinance and by Indiana law.

17 (c) With respect to any Bonds sold to the Authority as part of its SRF  
18 Program, to the extent that (a) the total principal amount of the Bonds is not paid  
19 by the purchaser or drawn down by the City or (b) proceeds remain in the  
20 Construction Account and are not applied to the Project (or any modifications or  
21 additions thereto approved by the Department and the Authority), the City shall  
22 reduce the principal amount of the Bond maturities to effect such reduction in a  
23 manner that will still achieve the annual debt service as described in Section 2  
24 subject to and upon the terms set forth in the Financial Assistance Agreement.

26 Section 11. Segregation and Application of Sewage Works Revenues.

27 All revenues derived from the operation of the Sewage Works and from the  
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1 collection of sewage rates and charges (including any System Development Charges  
2 that are not considered Net Revenues) shall be deposited in a special fund of the City  
3 ("Revenue Fund") and segregated and kept separate and apart from all other funds  
4 and bank accounts of the City. Out of said revenues the proper and reasonable  
5 expenses of operation, repair and maintenance of the Sewage Works shall be paid,  
6 the principal and interest of all bonds and fiscal agency charges of bank paying  
7 agents shall be paid, the Reserve Accounts shall be funded, and the costs of  
8 replacements, extensions, additions and improvements shall be paid as hereinafter  
9 provided. PILOTs shall be made not more frequently than semiannually and may  
10 be made only if all monthly deposits required by this ordinance are current and  
11 held as of such dates in the Operation and Maintenance Fund and the Sinking Fund  
12 (each as defined herein). No moneys derived from the revenues of the Sewage  
13 Works shall be transferred to the General Fund of the City or be used for any  
14 purpose not connected with the Sewage Works, except as provided in Section 14  
15 with respect to PILOTs. All moneys deposited in the Revenue Fund may be invested  
16 in accordance with IC 5-13, as amended and as applicable, pursuant to IC 5-1.2-1  
17 through IC 5-1.2-4 and IC 5-1.2-10.

21 Section 12. Operation and Maintenance Fund. The Operation and  
22 Maintenance Fund is hereby continued. On the last day of each calendar month,  
23 revenues of the Sewage Works shall be transferred from the Revenue Fund to the  
24 Operation and Maintenance Fund. The balance maintained in this Fund shall be  
25 sufficient to pay the expenses of operation, repair and maintenance for the then next  
26 succeeding two calendar months. The moneys credited to this Fund shall be used for  
27 the payment of the reasonable and proper operation, repair and maintenance  
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1 expenses of the sewage works on a day-to-day basis, but none of the moneys in such  
2 Fund shall be used for depreciation, replacements, improvements, extensions,  
3 additions or PILOTs. Any monies in said Fund in the excess of the expected  
4 expenses of operation, repair and maintenance for the next succeeding month may be  
5 transferred to the Sinking Fund if necessary to prevent a default in the payment of  
6 principal of or interest on the outstanding bonds of the Sewage Works.  
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8 Section 13. Sewage Works Sinking Fund. (a) The special fund  
9 designated the "Sewage Works Sinking Fund," continued under the Prior  
10 Ordinances is hereby continued and designated as the special fund for the  
11 payment of the interest on and principal of the Bonds and the payment of any fiscal  
12 agency charges in connection with the payment of the Bonds and interest thereon.  
13 There shall be set aside and deposited in the Sewage Works Sinking Fund ("Sinking  
14 Fund"), as available, and as hereinafter provided, a sufficient amount of the Net  
15 Revenues of the Sewage Works (including any System Development Charges that  
16 are considered Net Revenues) to meet the requirements of the Bond and Interest  
17 Account hereby continued and the Reserve Accounts hereby continued in the  
18 Sinking Fund. The special account within the Sinking Fund designated as the  
19 "Sewage Works Reserve Account," is hereby continued as a debt service reserve  
20 for all Prior Bonds except (i) those initially purchased by or for the account of the  
21 SRF Program; or (ii) those secured by the hereinafter described 2016 Reserve  
22 Account. The SRF Reserve Account is hereby continued as a debt service reserve  
23 for the Prior Bonds which were initially purchased by or for the account of the SRF  
24 Program and shall serve as the debt service reserve for all Bonds issued hereunder  
25 which are initially purchased by or for the account of the SRF Program. The 2016  
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1 Reserve Account is hereby continued and is constituted as a debt service reserve for  
2 certain Prior Bonds (the 2016 Refunding Bonds and the 2017 Refunding Bonds) and  
3 for any Bonds issued hereunder which are not initially purchased by or for the  
4 account of the SRF Program. Such payments shall continue until the balances in the  
5 Bond and Interest Account and the Reserve Accounts, equal the principal of and  
6 interest on all of the then outstanding bonds of the Sewage Works to their final  
7 maturity.  
8

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

4 (c) Reserve Accounts. On the date of delivery of any series of Bonds  
5 which are not initially purchased by or for the account of the SRF Program, funds on  
6 hand of the Sewage Works, Bond proceeds, a debt service reserve surety bond  
7 ("Surety Bond"), or a combination thereof may be deposited into the 2016 Reserve  
8 Account ("2016 Reserve Account") hereby continued. The balance to be maintained  
9 in the 2016 Reserve Account shall equal but not exceed the least of (i) maximum  
10 annual debt service on the Bonds (not initially purchased by or for the account of the  
11 SRF Program), the Prior Bonds secured by the 2016 Reserve Account and any parity  
12 bonds issued in the future by the City which are payable from Net Revenues of the  
13 Sewage Works ("Parity Bonds") and not initially purchased by or for the account of  
14 the SRF Program; (ii) 125% of average annual debt service on the Bonds (not  
15 initially purchased by or for the account of the SRF Program), the Prior Bonds  
16 secured by the 2016 Reserve Account and any Parity Bonds (not initially purchased  
17 by or for the account of the SRF Program) or (iii) 10% of the proceeds of the Bonds  
18 (not initially purchased by or for the account of the SRF Program), the Prior Bonds  
19 secured by the 2016 Reserve Account and any Parity Bonds (not initially purchased  
20 by or for the account of the SRF Program) ("2016 Reserve Requirement"). If the  
21 initial deposit into the 2016 Reserve Account does not cause the balance therein to  
22 equal the 2016 Reserve Requirement or if no deposit is made, a sum of Net  
23 Revenues shall be credited to the Reserve Account on the last day of each calendar  
24 month until the balance therein equals the 2016 Reserve Requirement. The monthly  
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1 deposits of Net Revenues shall be equal in amount and sufficient to accumulate the  
2 2016 Reserve Requirement within five years of the date of delivery of the Bonds.  
3 The 2016 Reserve Account shall not secure and may not be used to pay any Prior  
4 Bonds secured by the Reserve Account, or any Bonds or Parity Bonds which are  
5 initially purchased by or for the account of the SRF Program.  
6

7 The Sewage Works Reserve Account ("Reserve Account") is hereby  
8 continued and shall serve as the debt service reserve for all Prior Bonds except (i)  
9 those initially purchased by or for the account of the SRF Program, or (ii) those Prior  
10 Bonds secured by the 2016 Reserve Account (at this time, the 2016 Refunding  
11 Bonds and the 2017 Refunding Bonds). The balance to be maintained in the Reserve  
12 Account shall equal but not exceed the least of (i) maximum annual debt service on  
13 the Prior Bonds secured by the Reserve Account (not initially purchased by or for the  
14 account of the SRF Program); (ii) 125% of average annual debt service on the Prior  
15 Bonds secured by the Reserve Account (not initially purchased by or for the account  
16 of the SRF Program) or (iii) 10% of the proceeds of the Prior Bonds secured by the  
17 Reserve Account (not initially purchased by or for the account of the SRF Program)  
18 ("Reserve Requirement"). The Reserve Account is fully funded in an amount equal  
19 to the Reserve Requirement. The Reserve Account shall not secure and may not be  
20 used to pay any Prior Bonds, Bonds or Parity Bonds which are (i) initially purchased  
21 by or for the account of the SRF Program, or (ii) secured by the 2016 Reserve  
22 Account.  
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25 On the date of delivery of any series of Bonds which are initially purchased  
26 by or for the account of the SRF Program, funds on hand of the Sewage Works,  
27 Bond proceeds, a Surety Bond, or a combination thereof may be deposited into the  
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1 SRF Reserve Account (collectively, with the 2016 Reserve Account and the Reserve  
2 Account, referred to as "Reserve Accounts") hereby continued. The balance to be  
3 maintained in the SRF Reserve Account shall equal the maximum annual debt  
4 service on the Prior Bonds (initially purchased by or for the account of the SRF  
5 Program), the Bonds initially purchased by or for the account of the SRF Program  
6 and any Parity Bonds initially purchased by or for the account of the SRF Program  
7 ("SRF Reserve Requirement"); provided, however, the SRF Reserve Requirement is  
8 defined as the initial reserve requirement, and the amount held therein will be  
9 decreased on the second day of each January to the maximum annual debt service on  
10 the then outstanding Prior Bonds, Bonds and Parity Bonds initially purchased by or  
11 for the account of the SRF Program in the then present or any succeeding year, and  
12 provided, further than the City shall give 15 days prior written notice to the  
13 Authority before transferring funds out of the SRF Reserve Account. If the initial  
14 deposit into the SRF Reserve Account does not cause the balance therein to equal the  
15 SRF Reserve Requirement or if no deposit is made, a sum of Net Revenues shall be  
16 credited to the SRF Reserve Account on the last day of each calendar month until the  
17 balance therein equals the SRF Reserve Requirement. Notwithstanding the  
18 provisions set forth in any of the Prior Ordinances regarding the SRF Reserve  
19 Account, the monthly deposits of Net Revenues shall be equal in amount and  
20 sufficient to accumulate the SRF Reserve Requirement within five years of the date  
21 of delivery of the Bonds. The SRF Reserve Account shall not secure and may not be  
22 used to pay or any Prior Bonds, Bonds or Parity Bonds which are not initially  
23 purchased by or for the account of the SRF Program.  
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1 2016 Reserve Requirement, the Reserve Requirement or the SRF Reserve  
2 Requirement shall be transferred to the Sewage Works Improvement Fund.

3 (d) If any Bonds are initially purchased by or for the account of the SRF  
4 Program, the Sinking Fund, containing the Bond and Interest Account and the  
5 Reserve Accounts, and the Construction Account may be held by a financial  
6 institution acceptable to the Authority, pursuant to terms acceptable to the Authority.  
7 If all or a portion of the Sinking Fund and the accounts therein are held in trust, the  
8 City shall transfer the monthly required amounts of Net Revenues to the Bond and  
9 Interest Account and the Reserve Accounts in accordance with this Section 13, and  
10 the financial institution holding such funds in trust shall be instructed to pay the  
11 required payments in accordance with the payment schedules for the City's  
12 outstanding bonds. The financial institution selected to serve in this role may also  
13 serve as the Registrar and the Paying Agent for such Bonds. If the Construction  
14 Account is held in trust, the City shall deposit the proceeds of such Bonds therein  
15 until such proceeds are applied consistent with this ordinance and the Financial  
16 Assistance Agreement. The Common Council hereby authorizes the Mayor and  
17 Controller to execute and deliver an agreement with a financial institution to reflect  
18 this trust agreement for all or a part of the Sinking Fund and the Construction  
19 Account in the form of trust agreement as approved by the Mayor and the Controller,  
20 consistent with the terms and provisions of this ordinance.  
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24 Section 14. Sewage Works Improvement Fund. After meeting the  
25 requirements of the Operation and Maintenance Fund and the Sinking Fund, any  
26 excess revenues may be transferred or credited from the Revenue Fund to the  
27 "Sewage Works Improvement Fund," hereby continued, and said Sewage Works  
28

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

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

3 (b) So long as any of the Prior Bonds, BANS or Bonds are held by the  
4 Authority as part of its SRF Program, the City shall establish and maintain the books  
5 and other financial records of the Project (including the establishment of a separate  
6 account or subaccount for the Project) and the Sewage Works in accordance with (i)  
7 generally accepted governmental accounting standards for utilities, on an accrual  
8 basis, as promulgated by the Government Accounting Standards Board and (ii) the  
9 rules, regulations and guidance of the State Board of Accounts.  
10

11 Section 16. Rates and Charges. The City covenants and agrees that it will  
12 establish and maintain just and equitable rates or charges for the use of and the  
13 services rendered by said works, to be paid by the owner of each and every lot,  
14 parcel of real estate or building that is connected with and uses said Sewage Works  
15 by or through any part of the Sewage Works system of the City, or that in any way  
16 uses or is served by such Sewage Works. Such rates or charges shall, to the extent  
17 permitted by law and only so long as the Prior Bonds issued under the 2009 Bond  
18 Ordinance are outstanding, be sufficient in each year to produce Net Revenues equal  
19 to 1.1 times the greater of the average annual debt service on the Prior Bonds, the  
20 Bonds and any Parity Bonds or the debt service payable during the next succeeding  
21 twelve calendar months on the Prior Bonds, the Bonds and any Parity Bonds  
22 provided that System Development Charges shall be excluded, to the extent  
23 permitted by law, when determining if such rates and charges are sufficient so long  
24 as the Bonds are outstanding and owned by the Authority as part of its SRF  
25 Program. For these purposes, the interest rate on any variable rate debt shall be  
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1 assumed to be the average interest rate thereon in the preceding calendar year. Such  
2 rates and charges shall be sufficient in each year for the payment of the proper and  
3 reasonable expenses of Operation and Maintenance (as defined in the Financial  
4 Assistance Agreement) of the Sewage Works, to comply with and satisfy all  
5 covenants contained in this ordinance including the sums required to be paid into  
6 the Sinking Fund by the Act, this ordinance, and the Financial Assistance  
7 Agreement, and to pay all obligations of the Sewage Works and of the City with  
8 respect to the Sewage Works.  
9

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

18 Section 17. Defeasance. If, when the Bonds issued hereunder (or portions  
19 thereof) shall have become due and payable in accordance with their terms or shall  
20 have been duly called for redemption or irrevocable instructions to call the Bonds  
21 (or portions thereof) for redemption shall have been given, and the whole  
22 amount of the principal and the interest and the premium, if any, so due and  
23 payable upon all of the Bonds (or portions thereof) then outstanding shall be paid; or  
24 (i) sufficient moneys, or (ii) direct obligations of, or obligations the principal of and  
25 interest on which are unconditionally guaranteed by, the United States of  
26 America, the principal of and the interest on which when due will provide sufficient  
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1 less than the SRF Reserve Requirement, calculated to include principal and interest  
2 requirements on the Bonds, any then outstanding parity bonds and the additional  
3 Parity Bonds proposed to be issued, provided this condition shall be deemed satisfied  
4 if any required amount is to be provided from the proceeds of the newly issued Parity  
5 Bonds or other funds of the City over a period of no longer than five (5) years  
6 following the delivery of the Parity Bonds.  
7

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

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

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

22  
23 (f) For so long as any of the Bonds are outstanding and owned by the  
24 Authority as part of its SRF Program, (i) the City obtains the consent of the  
25 Authority, (ii) the City has faithfully performed and is in compliance with each of its  
26 obligations, agreements and covenants contained in the Financial Assistance  
27 Agreement and this resolution, and (iii) the City is in compliance with its National  
28

1 Pollutant Discharge Elimination System permits, except for non-compliance for  
2 which purpose the additional Parity Bonds are issued, including refunding bonds  
3 issued prior to, but part of the overall plan to eliminate such non-compliance.

4 Section 19. Additional Covenants of the City. For the purpose of further  
5 safeguarding the interests of the owners of the BANs and the Bonds herein  
6 authorized, it is specifically provided as follows:  
7

8 (a) All contracts let by the City in connection with the construction of the  
9 Project shall be let after due advertisement as required by the laws of the State of  
10 Indiana, and all contractors shall be required to furnish surety bonds in an amount  
11 equal to one hundred percent (100%) of the amount of such contracts, to insure the  
12 completion of said contracts in accordance with their terms, and such contractors  
13 shall also be required to carry such employers liability and public liability insurance  
14 as are required under the laws of the State of Indiana in the case of public contracts,  
15 and shall be governed in all respects by the laws of the State of Indiana relating to  
16 public contracts.  
17

18 (b) The Project shall be constructed under the supervision and subject to  
19 the approval of the Consulting Engineers or such other competent engineer as shall  
20 be designated by the Board. All estimates for work done or material furnished shall  
21 first be checked by the Consulting Engineers and approved by the Board.  
22

23 (c) So long as the Bonds or BANs are outstanding, the City shall at all  
24 times maintain its Sewage Works in good condition and operate the same in an  
25 efficient manner and at a reasonable cost.  
26

27 (d) So long as any of the Bonds or BANs herein authorized are  
28 outstanding, the City shall maintain insurance coverage, including fidelity bonds, to  
29

1 protect the Sewage Works and its operations on the insurable parts of said Sewage  
2 Works of a kind and in an amount such as would normally be carried by private  
3 companies engaged in a similar type of business, and, so long as the BANs  
4 and/or Bonds are owned by the Authority as part of its SRF Program such  
5 insurance shall be acceptable to the Authority. All insurance shall be placed with  
6 responsible insurance companies qualified to do business under the laws of the  
7 State of Indiana, provided, however, such insurance requirement may be satisfied,  
8 in part or in whole, through the City's self insurance program. Insurance proceeds  
9 and condemnation awards shall be used to replace or repair the property,  
10 provided, for so long as the BANs or Bonds are owned by the Authority as part of  
11 its SRF Program, the Authority may consent to a different use of such proceeds.  
12

13  
14 (c) So long as any of the BANs or Bonds are outstanding, the City shall  
15 not mortgage, pledge or otherwise encumber the Sewage Works, or any portion  
16 thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except  
17 replace equipment which may become worn out or obsolete, provided, however, if  
18 any Bonds or BANs are owned by the Authority as part of its SRF Program, the City  
19 shall obtain the prior written consent of the Authority.  
20

21 (f) If the Authority purchases the Bonds or BANs as part of its SRF  
22 Program and so long as the Bonds or BANs are outstanding and owned by the  
23 Authority, and, except as otherwise specifically provided in Section 18 hereof, the  
24 City shall not without the prior written consent of the Authority: (i) enter into any  
25 lease, contract or agreement or incur any other liabilities in connection with the  
26 Sewage Works other than for normal operating expenditures; or (ii) borrow any  
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1 money (including without limitation any loan from other utilities operated by the  
2 City).

3 (g) Except as hereinbefore provided in Section 18 hereof, so long as any  
4 of the Bonds herein authorized are outstanding, no additional bonds or other  
5 obligations pledging any portion of the revenues of said Sewage Works shall be  
6 authorized, executed or issued by the City except such as shall be made subordinate  
7 and junior in all respects to the Bonds herein authorized, unless all of the Bonds  
8 herein authorized are redeemed, retired or defeased pursuant to Section 17 hereof  
9 coincidentally with the delivery of such additional bonds or other obligations.  
10

11 (h) The City shall take all action or proceedings necessary and proper  
12 to require connection of all property where liquid and solid waste, sewage, night soil,  
13 or industrial waste is produced with available sanitary sewers. The City shall,  
14 insofar as possible, cause all such sanitary sewers to be connected with said Sewage  
15 Works.  
16

17 (i) The provisions of this ordinance shall constitute a contract by and  
18 between the City and the owners of the Bonds or BANS herein authorized, and after  
19 the issuance of said Bonds or BANS, this ordinance shall not be repealed or  
20 amended in any respect which will adversely affect the rights of the owners of said  
21 Bonds or BANS, nor shall the Common Council adopt any law, ordinance or  
22 resolution which in any way adversely affects the rights of such owners so long as  
23 any of said Bonds or BANS or the interest thereon remains unpaid. Except for the  
24 changes set forth in Section 24(a)-(f), this ordinance may be amended, however,  
25 without the consent of BAN or Bond owners, if the Common Council determines, in  
26 its sole discretion, that such amendment would not adversely affect the owners of the  
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1 proceeds or will have any actual or beneficial use of such property pursuant to a  
2 lease, management, service or incentive payment contract, an arrangement including  
3 take-or-pay or other type of output contracts or any other type of arrangement that  
4 conveys other special legal entitlements and differentiates that person's or entity's use  
5 of such property from use by the general public, unless such uses in the aggregate  
6 relate to no more than 10% of the proceeds of the Bonds or the BANS, as the case  
7 may be. If the City enters into a management contract for all or a portion of the  
8 sewage works, the terms of the contract will comply with the Regulations and IRS  
9 Revenue Procedure 2017-33, as amended, supplemented or superseded from time to  
10 time, so that the contract will not give rise to private business use under the Code and  
11 the Regulations unless such use in the aggregate will not relate to more than 10% of  
12 the proceeds of the Bonds or the BANS, as the case may be.  
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15 (b) No more than 10% of the principal of or interest on the Bonds or  
16 BANS is (under the terms of the Bonds or BANS, this ordinance or any underlying  
17 arrangement), directly or indirectly, secured by an interest in property used or to be  
18 used for any private business use or payments in respect of any private business use  
19 or payments in respect of such property or to be derived from payments (whether or  
20 not to the City) in respect of such property or borrowed money used or to be used for  
21 a private business use.  
22

23 (c) No more than 5% of the Bond or BAN proceeds will be loaned to any  
24 person or entity other than another state or local governmental unit. No more than  
25 5% of the Bond or BAN proceeds will be transferred, directly or indirectly, or  
26 deemed transferred to a nongovernmental person in any manner that would in  
27 substance constitute a loan of the Bond or BAN proceeds.  
28

1 (d) The City reasonably expects, as of the date hereof, that the Bonds and  
2 BANs will not meet either the private business use test described in paragraph (a)  
3 and (b) above or the private loan test described in paragraph (c) above during the  
4 entire term of the Bonds or BANs, as the case may be.  
5

6 (e) No more than 5% of the proceeds of the Bonds or BANs will be  
7 attributable to private business use as described in (a) and private security or  
8 payments described in (b) attributable to unrelated or disproportionate private  
9 business use. For this purpose, the private business use test is applied by taking into  
10 account only use that is not related to any government use of proceeds of the issue  
11 (Unrelated Use) and use that is related but disproportionate to any governmental use  
12 of those proceeds (Disproportionate Use).  
13

14 (f) The City will not take any action nor fail to take any action with  
15 respect to the Bonds or BANs that would result in the loss of the exclusion from  
16 gross income for federal tax purposes on the Bonds or BANs pursuant to Section 103  
17 of the Code, nor will the City act in any other manner which would adversely affect  
18 such exclusion. The City covenants and agrees not to enter into any contracts or  
19 arrangements which would cause the Bonds or BANs to be treated as private activity  
20 bonds under Section 141 of the Code.  
21

22 (g) It shall be not an event of default under this ordinance if the interest  
23 on any Bond or BAN is not excludable from gross income for federal tax purposes or  
24 otherwise pursuant to any provision of the Code which is not currently in effect and  
25 in existence on the date of issuance of the Bonds or BANs, as the case may be.  
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27 (h) The City represents that it will rebate any arbitrage profits to the  
28 United States in accordance with the Code. If required by the Authority, in  
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1 connection with the SRF Program, the City is authorized to execute and deliver a  
2 form of Rebate Agreement in a form provided by the SRF Program. The Mayor and  
3 the Controller, together or individually, are authorized to complete and execute the  
4 Rebate Agreement on behalf of the City in connection with any series of Bonds sold  
5 to the Authority as part of the SRF Program.

6  
7 (i) These covenants are based solely on current law in effect and in  
8 existence on the date of delivery of such Bonds or BANs, as the case may be.

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

21  
22  
23 (b) The Mayor and the Controller are hereby authorized and directed to  
24 execute a BAN Purchase Agreement or Financial Assistance Agreement (and any  
25 amendments made from time to time) in such form or substance as they shall  
26 approve acting upon the advice of counsel. The Mayor, the Clerk and the Controller  
27 may also take such other actions or deliver such other certificates as are necessary or  
28

1 desirable in connection with the issuance of the BANs or the Bonds and the other  
2 documents needed for the financing as they deem necessary or desirable in  
3 connection therewith.

4 Section 23. Compliance with Tax Sections. Notwithstanding any other  
5 provisions of this ordinance, the covenants and authorizations contained in this  
6 ordinance ("Tax Sections") which are designed to preserve the exclusion of interest  
7 on the Bonds and BANs from gross income under federal law ("Tax Exemption")  
8 need not be complied with if the City receives an opinion of nationally recognized  
9 bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.  
10

11 Section 24. Supplemental Ordinances. Subject to the terms and provisions  
12 contained in this Section, and not otherwise, the owners of not less than sixty-six and  
13 two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds issued  
14 pursuant to this ordinance and then outstanding shall have the right, from time to  
15 time, anything contained in this ordinance to the contrary notwithstanding, to  
16 consent to and approve the adoption by the City of such ordinance or ordinances  
17 supplemental hereto as shall be deemed necessary or desirable by the City for the  
18 purpose of modifying, altering, amending, adding to or rescinding in any particular  
19 any of the terms or provisions contained in this ordinance, or in any supplemental  
20 ordinance; provided, however, that so long as the Bonds or BANs are owned by the  
21 Authority as part of its SRF Program, the City shall obtain the prior written consent  
22 of the Authority; and provided, further, that nothing herein contained shall permit or  
23 be construed as permitting:  
24  
25  
26  
27  
28  
29  
30

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

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

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

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

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

13 (f) A reduction in the 2016 Reserve Requirement, the Reserve  
14 Requirement or the SRF Reserve Requirement.

15 If the owners of not less than sixty-six and two-thirds percent (66-2/3%)  
16 in aggregate principal amount of the Bonds outstanding at the time of adoption of  
17 such supplemental ordinance shall have consented to and approved the adoption  
18 thereof by written instrument to be maintained on file in the office of the Clerk of  
19 the City, no owner of any Bond issued pursuant to this ordinance shall have any  
20 right to object to the adoption of such supplemental ordinance or to object to any  
21 of the terms and provisions contained therein or the operation thereof, or in any  
22 manner to question the propriety of the adoption thereof, or to enjoin or restrain the  
23 City or its officers from adopting the same, or from taking any action pursuant to the  
24 provisions thereof. Upon the adoption of any supplemental ordinance pursuant to  
25  
26  
27  
28  
29

1 the provisions of this Section, this ordinance shall be, and shall be deemed,  
2 modified and amended in accordance therewith, and the respective rights, duties and  
3 obligations under this ordinance of the City and all owners of Bonds issued pursuant  
4 to the provisions of this ordinance then outstanding, shall thereafter be determined,  
5 exercised and enforced in accordance with this ordinance, subject in all respects to  
6 such modifications and amendments. Notwithstanding anything contained in the  
7 foregoing provisions of this ordinance, the rights and obligations of the City and  
8 of the owners of the Bonds authorized by this ordinance, and the terms and  
9 provisions of the Bonds and this ordinance, or any supplemental ordinance, may  
10 be modified or altered in any respect with the consent of the City and the consent  
11 of the owners of all the Bonds issued pursuant to this ordinance then outstanding.  
12

13  
14 Section 25. Rates and Charges. The estimates of the rates and charges of  
15 the Sewage Works are set forth in Ordinance No. \_\_\_\_\_ to be adopted on -  
16 February 25, 2020, which ordinance is incorporated herein by reference.

17 Section 26. Ordinance Constitutes Resolution under IC 36-9-23. For  
18 purposes of Sections 10 and 12 of IC 36-9-23, this ordinance shall constitute and be  
19 deemed as the "resolution" as such term is used under Sections 10 and 12 of IC 36-9-  
20 23.  
21

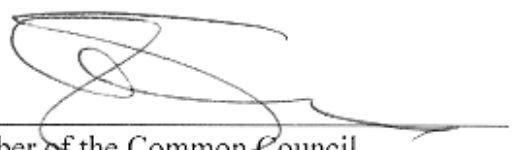
22 Section 27. Repeal of Conflicting Ordinances. All ordinances and parts of  
23 ordinances in conflict herewith are hereby repealed; provided, however, that this  
24 ordinance shall not be construed as modifying, amending or repealing in any respect  
25 any of the provisions of the Prior Ordinances, as amended to date, nor be construed  
26 as adversely affecting the rights of any of the holders of the Prior Bonds or the  
27 Refunded Bonds.  
28

1 Section 28. Captions. The captions in this ordinance are inserted only  
2 as a matter of convenience and reference, and such captions are not intended and  
3 shall not be construed to define, limit, establish, interpret or describe the scope,  
4 intent or effect of any provision of this ordinance.  
5


6 Section 29. Effectiveness. This ordinance shall be in full force and effect  
7 from and after its passage by the Common Council and approval by the Mayor.

8 PASSED AND ADOPTED by the Common Council of Fort Wayne, Indiana,  
9 on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

10 COMMON COUNCIL OF THE CITY OF FORT  
11 WAYNE, INDIANA

12  
13 By:   
Member of the Common Council

14 APPROVED AS TO FORM AND LEGALITY

15   
16 Carol Helton, City Attorney  
17  
18  
19  
20  
21  
22  
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30

1 EXHIBIT A

2 Project Description

3  
4 Wastewater Facility Expansions and Operational Improvements

5 Fort Wayne City Utilities (FWCU), in conjunction with its Consent Decree, the Long  
6 Term Control Plan (LTCP) and future economic development planning, has plans for  
7 a multi-year improvement plan to be constructed and additional infrastructure,  
8 buildings, facilities and structures are being added to the Water Pollution Control  
9 Plant (WPCP), Wet Weather Pond, Biosolids and other treatment complex areas.  
10 Additional land and access routes are required to allow for more cost-effective  
11 construction, operation and expansion of facilities in these areas.

12  
13 WPCP Treatment and Operational Improvements

14 As part of its long-term plan, systems for WPCP treatment and residual  
15 management are being rehabilitated and upgraded as necessary to reliably support  
16 the increased treatment required by the LTCP, improve its efficiency and to meet its  
17 permit requirements. These improvements are being implemented in a sustainable  
18 manner so that the energy necessary to run the associated systems is reasonably  
19 minimized and is intended to reduce FWCU operational costs. Improvements  
20 included, but not limited to, are upgrades to the aeration system, electrical systems,  
21 heating and air conditioning systems, effluent treatment and piping, laboratory  
22 facilities and biosolids facilities.

23  
24 Sludge, Digester & Methane System Improvements

25 A multi-phase digester improvement program is currently being implemented in the  
26 capital program. Currently, six (6) digesters and their associated facilities and  
27 systems are in service which allows the FWCU to produce class "A" sludge as well  
28 as produce methane gas that is utilized to generate energy. FWCU intends to make  
29 reliability, efficiency and operational improvements, consistent with its regulatory  
30 commitments, including improvements to the high strength waste receiving facilities  
and systems, methane gas systems, boilers and heat exchangers, sludge handling  
systems and the digested sludge force main system. These improvements are being  
implemented in a sustainable manner so that methane produced by the digestion  
process can be utilized to produce heat and power or converted into other energy  
sources for use by FWCU.

Wet Weather Pond Pumping, Storage and Dewatering Improvements

The Wet Weather facilities on the north side of the river across from the WPCP are  
a vital part of FWCU's wet weather facilities and play a key role in the City's LTCP  
and long-term wet weather strategy. The Wet Weather Pump Station (WWPS) that  
is used to dewater the interceptor system and fill the ponds during wet weather  
events will require additional pumps and screens to increase its capacity. This  
increase is to handle the additional flows from the tunnel that is planned to begin  
operation by the end of 2023. Additional improvements to the Wet Weather pond

1 infrastructure and facilities will be made to increase their capacity and ability to store  
2 wet weather flows efficiently and effectively.

3 Three Rivers Protection and Overflow Reduction Tunnel (3RPORT) Program

4 This program is a combination of projects that are key component of the LTCP. The  
5 main component is the construction of the 3RPORT deep rock tunnel from the  
6 southern side of the combined sewer system along the St Marys River north and  
7 then east along the Maumee River to the WPCP. This new tunnel provides a  
8 significant increase in wet weather flows from existing interceptors and CSO outfalls  
9 to be transported to the WPCP for treatment - or to the WWPS for storage in the  
10 Wet Weather Ponds, instead of overflowing into the local waterways. The  
11 program/project includes a deep rock tunnel, drop shafts and associated screening  
12 and odor control facilities, collector and relief/conveyance sewers, floatables control  
13 and outfall modifications, and the tunnel dewatering pump station. The 3RPORT  
14 improvements are required to be operational by the end of 2023.

11 Foster Park Relief Sewers and Facilities

12 This program is a combination of projects that are intended to convey flow from the  
13 southernmost St Marys River CSO outfalls to the 3RPORT deep rock tunnel. The  
14 program may include a combination of capacity improvements, including collector  
15 and relief/conveyance sewers, storage facilities, pump stations and force mains,  
16 floatables control and outfall modifications. The Foster Park improvements are  
17 required per the Consent Decree to be operational by the end of 2025.

16 Combined Sewer System Capacity Improvements

17 The projects in this category of work generally include partial sewer separation by  
18 the construction of new storm drains and/or sanitary sewers and structures but may  
19 include various other technologies/methods and source control efforts to reduce  
20 Combined Sewer Overflows (CSO's) and improve neighborhood sewer or  
21 stormwater system capacity. In these projects, the City will investigate the potential  
22 for incorporating green/sustainable solutions.

21 Satellite Storage Facility Improvements

22 These LTCP projects allow for excess wet weather flows from the combined sewers  
23 in designated areas to be diverted into underground storage tanks for temporary  
24 storage as part of efforts to reduce CSO's to local waterways. The facilities would  
25 typically consist of underground storage basins, a pump station, process structures,  
26 floatables control and site improvements and all associated operations facilities.

26 Floatable Control Facilities

27 These projects are proposed to construct structures or facilities for the screening  
28 and removal of floatables from the CSO outfalls in the collection system as required

1 by the LTCP. The sizing of these facilities is dependent on many variables for each  
2 site, but FWCU intends, as much as reasonable, to utilize similar methods of  
3 removal for each type of site.

#### 4 Technology Improvements

5 FWCU plans to implement technology improvements for operational efficiency and  
6 customer service. These projects will often be in partnership with the Water and  
7 Stormwater Utilities. Projects include, but not limited to include: AMI (Advanced  
8 Metering Infrastructure) system to collect water meter readings via a new fixed  
9 communication network and replace existing metering infrastructure at the end of its  
10 useful life, improvements to Supervisory Control and Data Acquisition (SCADA)  
11 systems and improvements to business and asset management systems.

#### 12 Collection System - Capacity Improvements

13 This category of work will consist of a combination of projects and efforts directed  
14 towards improving the capacity and reach of the collection system for economic  
15 development as well as the reduction and mitigation of sanitary sewer overflows and  
16 surcharging in the existing sanitary sewer collection system as required by the  
17 Consent Decree. Areas of work identified for potential improvements include sewer  
18 infrastructure serving and areas tributary to these subbasins. Work may include  
19 sewer rehabilitation, sewer construction, pump station facilities, wet weather  
20 storage/equalization improvements, source control and other collection system  
21 improvements as determined necessary by ongoing planning and engineering  
22 studies of the areas. Projects and/or areas identified in the capital plan to date are:  
23 Nebraska, Rothman and Tamarack, upper Maumee interceptor system and sewer  
24 subbasins, upper St Joseph interceptor system and sewer subbasins, Spy Run  
25 interceptor system and subbasins, lower St Marys interceptor system and subbasins  
26 and the Trier Ditch interceptor system and subbasins.

#### 27 Collection System Improvements – Repair & Replacement Program

28 The goal of the Sewer Repair and Replacement Program is to develop, implement  
29 and monitor sewer repair/replacement strategies to proactively, following standard  
30 industry asset management principles, identify deteriorating or assets in the sewer  
collection system that are reaching their useful life. It is also to coordinate review  
and analysis of sewer operation and maintenance data to select and prioritize  
collection system renewal, repair and replacement projects as per the Consent  
Decree and the City's regulatory commitments. Cured in Place Piping (CIPP) and  
other trenchless construction technologies are often utilized for renewal and repair  
of piping and manholes, but sometimes the construction of improvements requires  
open cut installation and excavation for new underground sewer infrastructure.

1 EXHIBIT B

2 FORM OF REGISTERED BOND

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

14 NO. \_\_\_\_\_

15 UNITED STATES OF AMERICA

16 STATE OF INDIANA

17 COUNTY OF ALLEN

18 CITY OF FORT WAYNE

19 [TAXABLE] SEWAGE WORKS REVENUE

20 [[AND] REFUNDING REVENUE] BOND OF \_\_\_\_\_[, SERIES \_\_\_\_\_]

21 Interest	[Maturity	Original	Authentication
<u>Rate</u>	<u>Date]</u>	<u>Date</u>	<u>Date</u>
[CUSIP]			

22 REGISTERED OWNER:

23 PRINCIPAL SUM:

24 The City of Fort Wayne, in Allen County, State of Indiana ("City"), for value  
25 received, hereby promises to pay to the Registered Owner named above or registered  
26 assigns, solely out of the special revenue fund hereinafter referred to, the Principal  
27 Sum set forth above[, or so much thereof as may be advanced from time to time and  
28 be outstanding as evidenced by the records of the registered owner making payment  
29 for this bond, or its assigns,] on [the Maturity Date set forth above] **OR** [on the dates  
30 and in the amounts as set forth on Exhibit A attached hereto] (unless this bond be  
subject to and shall have been duly called for redemption and payment as provided  
for herein), and to pay interest hereon until the Principal Sum shall be fully paid at  
the rate[s] per annum [specified above] **OR** [as set forth on Exhibit A attached  
hereto] from [the dates of payment made on this bond] **OR** [the interest payment  
date to which interest has been paid next preceding the Authentication Date of this  
bond unless this bond is authenticated after the fifteenth day of the month preceding  
an interest payment date and on or before such interest payment in which case it shall

1 bear interest from such interest payment date, or unless this bond is authenticated on  
2 or before \_\_\_\_ 15, \_\_\_\_, in which case it shall bear interest from the Original Date,]  
3 until the principal is paid, which interest is payable semiannually on the first days of  
4 February and August in each year, beginning on \_\_\_\_\_ 1, 20\_\_\_. Interest shall  
5 be calculated according to a 360-day calendar year containing twelve 30-day months.

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

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

This bond is [the only] one of an authorized issue of bonds of the City],  
issued in series] [of like date, tenor and effect, [except as to rates of interest[series  
designation,]] and dates of maturity] aggregating \_\_\_\_\_  
Dollars (\$) \_\_\_\_\_) [for this series]; numbered consecutively from 1 up;  
issued for the purpose of providing funds to be applied on the cost of [additions,  
extensions and improvements to the sewage works system of the City ("Project")],  
to refund interim notes issued in anticipation of the bonds,] [refunding certain  
Refunded Bonds (as defined in the hereinafter defined Ordinance] and to pay  
issuance expenses [including a premium for a debt service reserve surety]. This  
bond is issued pursuant to an Ordinance adopted by the Common Council of the City

1 on the \_\_\_\_ day of \_\_\_\_\_, 2020, entitled "AN ORDINANCE OF THE  
2 COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA,  
3 AUTHORIZING THE REFUNDING BY THE CITY OF CERTAIN  
4 OUTSTANDING SEWAGE WORKS REVENUE BONDS, THE ACQUISITION  
5 AND INSTALLATION OF CERTAIN IMPROVEMENTS TO THE CITY'S  
6 SEWAGE WORKS, AND THE COLLECTION, SEGREGATION AND  
7 DISTRIBUTION OF THE REVENUES OF SUCH SEWAGE WORKS AND  
8 OTHER RELATED MATTERS, AND REPEALING ORDINANCES  
9 INCONSISTENT HEREWITH" ("Ordinance"), and in accordance with the  
10 provisions of Indiana law, including without limitation [Indiana Code 5-1-5 and]  
11 Indiana Code 36-9-23 as in effect on the date of delivery of the bonds of this issue  
12 ("Act"), the proceeds of which bonds are to be applied to the costs of the [refunding  
13 and legal defeasance of the Refunded Bonds] [Project,] [the payment of notes issued  
14 in anticipation of the bonds,] and expenses incurred in connection therewith],  
15 including a premium for a debt service reserve surety ].

16 [Reference is hereby made to the Financial Assistance Agreement ("Financial  
17 Assistance Agreement") between the City and the Authority concerning certain terms  
18 and covenants pertaining to the Project and the purchase of this bond as part of the  
19 wastewater loan program established and existing pursuant to IC 5-1.2-1 through IC  
20 5-1.2-4 and IC 5-1.2-10.]

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

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

The City irrevocably pledges the entire Net Revenues of the sewage works to  
the prompt payment of the principal of and interest on the bonds authorized by the  
Ordinance, of which this is one, and any bonds ranking on a parity therewith,  
including the Prior Bonds [and the Series \_\_\_\_ Bonds] to the extent necessary for that  
purpose, and covenants that it will cause to be fixed, maintained and collected such  
rates and charges for services rendered by the utility as are sufficient in each year for  
the payment of the proper and reasonable expenses of Operation and Maintenance

1 (as defined in the Financial Assistance Agreement) of the sewage works and for the  
2 payment of the sums required to be paid into the Sinking Fund under the provisions  
3 of the Act and the Ordinance. If the City or the proper officers thereof shall fail or  
4 refuse to so fix, maintain and collect such rates or charges, or if there be a default in  
5 the payment of the interest on or principal of this bond, the owner of this bond shall  
6 have all of the rights and remedies provided for in the Act, including the right to  
7 have a receiver appointed to administer the works and to charge and collect rates  
8 sufficient to provide for the payment of this bond and the interest hereon.

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

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

25 \_\_\_\_\_% if redeemed on \_\_\_\_\_ 1, 20\_\_\_\_ or thereafter  
26 on or before \_\_\_\_\_, 20\_\_\_\_;  
27 \_\_\_\_\_% if redeemed on \_\_\_\_\_ 1, 20\_\_\_\_ or thereafter  
28 on or before \_\_\_\_\_, 20\_\_\_\_;  
29 0% if redeemed on \_\_\_\_\_ 1, 20\_\_\_\_ or thereafter  
30 prior to maturity;

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

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

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

1 \* Final Maturity]

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

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

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

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

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

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

8 The bonds maturing in any one year are issuable only in fully registered form  
9 in the denomination of [\$5,000 or any integral multiple thereof] [\$1 or any integral  
10 multiple thereof] [\$100,000 and any integral multiple of \$5,000 thereafter]. [The  
11 sale or transfer of this bond in principal amounts of less than \$100,000 is prohibited  
12 other than through a primary offering.]

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

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

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

CITY OF FORT WAYNE, INDIANA

6 By \_\_\_\_\_  
7 Mayor

8 COUNTERSIGNED:

9 By \_\_\_\_\_  
10 Controller

11 [SEAL]

12 Attest:

13 \_\_\_\_\_  
14 Clerk

15 REGISTRAR'S CERTIFICATE OF AUTHENTICATION

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

17 \_\_\_\_\_  
18 as Registrar

19 By \_\_\_\_\_  
20 Authorized Representative

21 ASSIGNMENT

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

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

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

[EXHIBIT A]

[To be completed on a separate page]

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EXHIBIT C  
Form of Financial Assistance Agreement

**STATE OF INDIANA  
WASTEWATER REVOLVING LOAN PROGRAM**

**FINANCIAL ASSISTANCE AGREEMENT** made as of this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between the Indiana Finance Authority (the "Finance Authority"), a body politic and corporate, not a state agency but an independent instrumentality of the State of Indiana (the "State") and the City of Fort Wayne, Indiana (the "Participant"), a political subdivision as defined in I.C. 5-1.2-2-57 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. 5-1.2-10 (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 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 Participant has previously entered into fourteen (14) Financial Assistance Agreements with the Finance Authority, (or the State in its capacity as predecessor to the Finance Authority in matters related to the Wastewater SRF Program and the Drinking Water SRF Program), dated as of October 14, 2005, December 13, 2006, January 1, 2009, September 15, 2009, December 23, 2009, October 26, 2011, October 26, 2011, November 15, 2011, September 10, 2012, July 17, 2014, November 20, 2014, July 12, 2016, October 12, 2016 and November 15, 2018 (collectively the "Prior Agreements"), to borrow money from the Wastewater SRF Program or the Drinking Water SRF Program to construct and acquire separate projects (as described and defined in the Prior Agreements); and

WHEREAS, the 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.

**“Asset Management Program”** means programs, plans and documentation (including a Fiscal Sustainability Plan) that demonstrates that the Participant has the financial, managerial, technical, and legal capability to operate and maintain its Treatment Works and which is consistent with SRF Policy Guidelines including applicable requirements of the Wastewater SRF Act.

**“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 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.

**“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; (c) 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.

**“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 [ \_\_\_\_\_ 1, 20\_\_ ] and the first day of each sixth (6<sup>th</sup>) 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.

**“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.

**“System Development Charges”** shall mean the proceeds and balances from any non-recurring charges such as tap fees, subsequent connector fees, capacity or contribution fees, and other similar one-time charges applicable to the Treatment Works that are available for deposit under the Authorizing Instrument.

**“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. 5-1.2-10-2.

**“Wastewater SRF Indenture”** shall mean the Seventh Amended and Restated Wastewater SRF Trust Indenture, dated as of September 1, 2019 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 Accounts or from other sources that the Finance Authority may, in its sole discretion, designate. The Loan is evidenced by the Bonds executed and delivered by the Participant contemporaneously herewith. The Bonds shall be in fully registered form, with the Finance Authority registered as the registered owner. So long as the Finance Authority is the registered owner, the principal of and redemption premium, if any, and interest on the Bonds shall be paid to the Trustee by a wire transfer referenced as follows: The Bank of New York, ABA 021 000 018, For Credit to 610026840C, Account Name: City of Fort Wayne, 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 [ \_\_\_\_\_ ] percent ([ \_\_\_\_\_ ]%). Such interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months, and be as provided in I.C. 5-1.2-10-15 and -20. Interest, if any, on the Bonds will be payable on February 1 and August 1 of each year, commencing [ \_\_\_\_\_ ] 1, 20[ \_\_\_\_\_ ]. The Bonds will be in the aggregate principal amount of [ \_\_\_\_\_ ] Dollars (\$[ \_\_\_\_\_ ]). Subject to Section 2.05 and 2.06 herein, the Bonds will mature annually on August 1 through and including August 1, 2033 and will mature semi-annually on each August 1 and February 1 of each of the years set forth in, and at the principal amount set opposite each such month and year set forth in the schedule contained in the attached Exhibit B 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 thirty-five (35) years after the date of this Agreement. 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. 5-1.2-10, 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, 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 Participant fails to make such Loan Reduction Payment 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, 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 to the Finance Authority audited financial statements of the Participant inclusive of the activities of the Treatment Works, commencing with financial statements for a calendar year period that ends not more than two (2) years after the date of this Agreement (and for each calendar year period that ends every two (2) years thereafter until the Loan has been repaid), which audit (i) shall have been performed by the Indiana State Board of Accounts or by an independent public accountant and (ii) shall be submitted to the Finance Authority no later than nine (9) months following the end of the calendar year period to which such audit pertains.

(h) Develop, certify, implement and maintain an Asset Management Program (including a Fiscal Sustainability Plan) of the Participant that meets SRF Policy Guidelines including applicable requirements of the Wastewater SRF Act. The Participant acknowledges that its agreement to develop, certify, implement and maintain an Asset Management Program (including a Fiscal Sustainability Plan) as provided in this subsection was a condition of the Loan. Unless the Participant's Asset Management

Program (including a Fiscal Sustainability Plan) was certified prior to the date of this Agreement, the Participant agrees to submit a certification (on and in a form as provided by the Finance Authority) related to the Participant's Asset Management Program (including a Fiscal Sustainability Plan) prior to submitting its request for a final Loan disbursement related to the Project. Over the term of the Loan, the Participant further agrees to continue to update, implement and maintain the Participant's Asset Management Program (including a Fiscal Sustainability Plan) to assure it has the financial, managerial, technical, and legal capability to operate and maintain its Treatment Works consistent with SRF Policy Guidelines including applicable requirements of the Wastewater SRF Act.

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

(j) (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 (when determined including user and other charges, fees, income or revenues available to the Participant, provided that to the extent permitted by law System Development Charges shall be excluded when determining if such are sufficient) to provide for the proper Operation and Maintenance of the 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.

(k) 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.

(l) 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.

(m) 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.

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

(o) 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.

(p) 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.

(q) 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.

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

(s) 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.

(t) (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.

(u) 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.

(v) 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.

(w) Whenever from time to time requested by the Finance Authority, submit evidence satisfactory to the Finance Authority demonstrating that the Participant's rates and charges are at a level adequate to produce and maintain sufficient net revenue after providing for the proper Operation and Maintenance of the 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) and, in the event the

Participant's rates and charges are insufficient to demonstrate such coverage, then to the extent permitted by law annually enact an increase in its rates and charges reasonably designed to be consistent with SRF Policy Guidelines regarding such coverage.

(x) Notwithstanding any provision of the Authorization Instrument to the contrary, not make any payment in lieu of property taxes from any account of the Treatment Works (i) if the Finance Authority provides notice to the Participant that the Finance Authority has determined in its reasonable discretion that such a transfer adversely affects the Finance Authority and (ii) more frequently than semiannually if the Authority provides notice to the Participant so requiring such a limitation on frequency.

(y) 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. 5-1.2-2-57) and a "participant" within the meaning of I.C. 5-1.2-2-54. 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 3.04. 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 Prior Agreements.** The Participant and the Finance Authority agree that any event of default occurring under 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.

**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 any Prior Agreements except as expressly set forth in Section 4.03 herein.

**Section 5.06. Execution of Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be executed by the Finance Authority and the

Participant, and all of which shall be regarded for all purposes as one original and shall constitute one and the same instrument.

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

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

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

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

City of Fort Wayne  
200 East Berry, #470  
Fort Wayne, IN 46802  
Attention: Controller

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

**Section 5.09. Expenses.** The Participant covenants and agrees to pay (a) the fees, costs and expenses in connection with making the Loan, including issuing the Bonds and providing the necessary certificates, documents and opinions required to be delivered therewith; (b) the fees, costs and expenses in connection with making and administering the Loan; (c) the costs and expenses of complying with its covenants made herein; and (d) any and all costs and expenses, including attorneys' fees, incurred by the Finance Authority in connection with the enforcement of this Agreement, the Authorizing Instrument and the Bonds in the event of the breach by the Participant of or a default under this Agreement, the Authorizing Instrument or the Bonds. Notwithstanding clause (b) above, the Participant shall not be obligated to pay any of the fees, costs and expenses in connection with administering the Loan except as follows: (1) the Finance Authority may request and the Participant shall promptly pay (no later than the date first above written), a closing fee in connection with the Loan in an amount determined by the Finance Authority, but not exceeding \$1,000, which may not be paid from a Loan disbursement; (2) the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), an annual administrative fee in connection with the Loan in an amount determined by the Finance Authority, but not exceeding \$1,000, which may not be paid from a Loan disbursement; (3) the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), a Non-Use Fee in connection with the Loan, which may not be paid from a Loan disbursement; (4) 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 (5) 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)

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BEEN INTENTIONALLY LEFT BLANK]

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

**CITY OF FORT WAYNE, INDIANA**

**INDIANA FINANCE AUTHORITY**

“Participant”

“Finance Authority”

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

James P. McGoff  
Director of Environmental Programs

Title: \_\_\_\_\_

Attested by Finance Authority Staff:

Attest: \_\_\_\_\_

By: \_\_\_\_\_

(Signature Page to Financial Assistance Agreement)

**EXHIBIT A**  
**Project Description**

The Project consists of the following improvements to the Participant's Treatment Works:

- Modifications to three existing regulator structures (Brown Street, Rolling Mills, and Hanna Street), including the installation of hydraulic gates, overflow piping, valve vaults, check valves, flowmeters, SCADA control, and electrical work.

[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](http://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 for the Bonds**

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Principal Amount</u>
08/01/2020	\$	08/01/2041	
08/01/2021		02/01/2042	
08/01/2022		08/01/2042	
08/01/2023		02/01/2043	
08/01/2024		08/01/2043	
08/01/2025		02/01/2044	
08/01/2026		08/01/2044	
08/01/2027		02/01/2045	
08/01/2028		08/01/2045	
08/01/2029		02/01/2046	
08/01/2030		08/01/2046	
08/01/2031		02/01/2047	
08/01/2032		08/01/2047	
08/01/2033		02/01/2048	
02/01/2034		08/01/2048	
08/01/2034		02/01/2049	
02/01/2035		08/01/2049	
08/01/2035		02/01/2050	
02/01/2036		08/01/2050	
08/01/2036		02/01/2051	
02/01/2037		08/01/2051	
08/01/2037		02/01/2052	
02/01/2038		08/01/2052	
08/01/2038		02/01/2053	
02/01/2039		08/01/2053	
08/01/2039		02/01/2054	
02/01/2040		08/01/2054	
08/01/2040		02/01/2055	
02/01/2041			
		<b>TOTAL</b>	<b>\$</b>

[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, 2019 (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 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 GPR Projects Business

Case Amount), all as determined by the Finance Authority.

**“GPR Projects Business Case Amount”** shall mean the amount referenced in the Participant’s business case related to GPR Projects as was set in the Participant’s Preliminary Engineering Report (or categorical exclusion) posted at [www.srf.in.gov](http://www.srf.in.gov), uses of funds information submitted to the Finance Authority after the Project was bid or some other submitted information that was used by the Finance Authority prior to the date of this Agreement to set a special interest rate under the Wastewater SRF Program’s interest rate policies and practices applicable to the Bonds.

**“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 GPR Projects Business Case Amount, 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. The Participant shall certify to the Finance Authority those Loan disbursements it represents to be its GPR Projects Expenditures when and as required by SRF Policy Guidelines. The Participant understands and acknowledges that it is required to submit a business case or categorical exclusion documenting the GPR Projects and the GPR Projects Business Case Amount prior to loan closing or if a request is made pursuant to Section 3.02(f) of this Agreement.

- C. *The following additional terms in this Paragraph C (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 post-bid and other documents submitted to the Finance Authority), 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 Amount”** shall mean the amount referenced in the Participant’s post-bid and other documents submitted to the Finance Authority prior to the date of this Agreement to set a special interest rate under the Wastewater SRF Program’s interest rate policies and practices applicable to the Bonds

**“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 Non-point Source Projects Amount, 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. The Participant shall certify to the Finance Authority those Loan disbursements it represents to be its Non-point Source Expenditures when and as requested by SRF Policy Guidelines.

[End of Exhibit D]

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CITY COUNCIL MEMORANDUM

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**TO:** Members of Common Council  
**FROM:** Justin Brugger  
**SUBJECT:** Resolutions Authorizing Sanitary Sewer Utility Rates and Bonds  
**DATE:** January 22, 2020  
**CC:** Kumar Menon, Matthew Wirtz, Brandon Almas



---

Council Districts Impacted: All  
Council Introduction Date: January 28, 2020  
Council Discussion Date: February 18, 2020

In 2008, the City of Fort Wayne entered a consent decree with the United States Department of Justice, the United States Environmental Protection Agency, and the Indiana Department of Environmental Management to reduce combined sewer overflow volume by over 90 percent, while continuing to operate and maintain the entire sanitary sewer system to prescribed standards the Clean Water Act.

Since that time, City Utilities has met all targets, milestones, and deadlines required under the consent decree, avoiding fines and penalties. The attached sewer rate and bond ordinance represent the final phase of rates and projects required to meet the consent decree obligations.

# The Journal Gazette

Account # 1063561 - 1381826

Allen County, Indiana

**FW City Clerk's Office**

## PUBLISHER'S CLAIM

### LINE COUNT

Display Master (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) -- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

286

### COMPUTATION OF CHARGES

143 lines, 2 column(s) wide equals

286 equivalent lines at \$ 0.486 cents per line

\$ 139.00

Additional charges for notices containing rule or tabular work  
(50 per cent of above amount)

69.50

Charge for extra proofs of publication  
(\$2.00 for each proof in excess of two)

-

TOTAL AMOUNT OF CLAIM

\$ 208.50

### DATA FOR COMPUTING COST

Width of single column in picas . . . . 9.8    Size of type . . . . 7point.

Number of Insertions . . . . 1

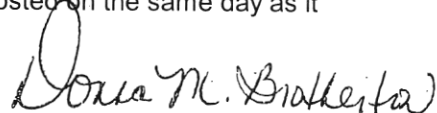
Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper 1 times.

The dates of publication being as follows:

3/3/2020

Additionally, Newspaper has a Web site and this public notice was posted on the same day as it was published in The Journal Gazette.



Donna M. Brotherton  
Legal Clerk

Date: March 3, 2020

ATTACH COPY OF ADVERTISEMENT HERE

**NOTICE OF DETERMINATION TO CONSTRUCT AND FINANCE ADDITIONS AND IMPROVEMENTS TO THE FORT WAYNE SEWAGE WORKS AND THE ADOPTION AND PURPORT OF THE ORDINANCE AUTHORIZING SAME**

Property owners, ratepayers and other interested parties in or served or to be served by the sewage works of the City of Fort Wayne, Indiana ("City"), are hereby notified that on February 25, 2020, the Common Council adopted Ordinance No. S-30-20 ("Ordinance"), thereby determining to construct additions and improvements to the City's sewage works consisting of the following:

**Wastewater Facility Expansions and Operational Improvements**  
Fort Wayne City Utilities (FWCU), in conjunction with its Consent Decree, the Long Term Control Plan (LTCP) and future economic development planning, has plans for a multi-year improvement plan to be constructed and additional infrastructure, buildings, facilities and structures are being added to the Water Pollution Control Plant (WPCP), Wet Weather Pond, Biosolids and other treatment complex areas. Additional land and access routes are required to allow for more cost-effective construction, operation and expansion of facilities in these areas.

**WPCP Treatment and Operational Improvements**  
As part of its long-term plan, systems for WPCP treatment and residual management are being rehabilitated and upgraded as necessary to reliably support the increased treatment required by the LTCP, improve its efficiency and to meet its permit requirements. These improvements are being implemented in a sustainable manner so that the energy necessary to run the associated systems is reasonably minimized and is intended to reduce FWCU operational costs. Improvements included, but not limited to, are upgrades to the aeration system, electrical systems, heating and air conditioning systems, effluent treatment and piping, laboratory facilities and biosolids facilities.

**Sludge, Digester & Methane System Improvements**  
A multi-phase digester improvement program is currently being implemented in the capital program. Currently, six (6) digesters and their associated facilities and systems are in service which allows the FWCU to produce class "A" sludge as well as produce methane gas that is utilized to generate energy. FWCU intends to make reliability, efficiency and operational improvements, consistent with its regulatory commitments, including improvements to the high strength waste receiving facilities and systems, methane gas systems, boilers and heat exchangers, sludge handling systems and the digested sludge force main system. These improvements are being implemented in a sustainable manner so that methane produced by the digestion process can be utilized to produce heat and power or converted into other energy sources for use by FWCU.

**Wet Weather Pond Pumping, Storage and Dewatering Improvements**  
The Wet Weather facilities on the north side of the river across from the WPCP are a vital part of FWCU's wet weather facilities and play a key role in the City's LTCP and long-term wet weather strategy. The Wet Weather Pump Station (WWPS) that is used to dewater the interceptor system and fill the ponds during wet weather events will require additional pumps and screens to increase its capacity. This increase is to handle the additional flows from the tunnel that is planned to begin operation by the end of 2023. Additional improvements to the Wet Weather pond infrastructure and facilities will be made to increase their capacity and ability to store wet weather flows efficiently and effectively.

**Three Rivers Protection and Overflow Reduction Tunnel (3RPORT) Program**  
This program is a combination of projects that are key component of the LTCP. The main component is the construction of the 3RPORT deep rock tunnel from the southern side of the combined sewer system along the St Marys River north and then east along the Maumee River to the WPCP. This new tunnel provides a significant increase in wet weather flows from existing interceptors and CSO outfalls to be transported to the WPCP for treatment - or to the WWPS for storage in the Wet Weather Ponds, instead of overflowing into the local waterways. The program/project includes a deep rock tunnel, drop shafts and associated screening and odor control facilities, collector and relief/conveyance sewers, floatables control and outfall modifications, and the tunnel dewatering pump station. The 3RPORT improvements are required to be operational by the end of 2023.

**Foster Park Relief Sewers and Facilities**  
This program is a combination of projects that are intended to convey flow from the southernmost St Marys River CSO outfalls to the 3RPORT deep rock tunnel. The program may include a combination of capacity improvements, including collector and relief/conveyance sewers, storage facilities, pump stations and force mains, floatables control and outfall modifications. The Foster Park improvements are required per the Consent Decree to be operational by the end of 2025.

**Combined Sewer System Capacity Improvements**  
The projects in this category of work generally include partial sewer separation by the construction of new storm drains and/or sanitary sewers and structures but may include various other technologies/methods and source control efforts to reduce Combined Sewer Overflows (CSO's) and improve neighborhood sewer or stormwater system capacity. In these projects, the City will investigate the potential for incorporating green/sustainable solutions.

**Satellite Storage Facility Improvements**  
These LTCP projects allow for excess wet weather flows from the combined sewers in designated areas to be diverted into underground storage tanks for temporary storage as part of efforts to reduce CSO's to local waterways. The facilities would typically consist of underground storage basins, a pump station, process structures, floatables control and site improvements and all associated operations facilities.

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

**Technology Improvements**  
FWCU plans to implement technology improvements for operational efficiency and customer service. These projects will often be in partnership with the Wa-

ter and Stormwater Utilities. Projects include, but not limited to include: AMI (Advanced Metering Infrastructure) system to collect water meter readings via a new fixed communication network and replace existing metering infrastructure at the end of its useful life, improvements to Supervisory Control and Data Acquisition (SCADA) systems and improvements to business and asset management systems.

**Collection System - Capacity Improvements**

This category of work will consist of a combination of projects and efforts directed towards improving the capacity and reach of the collection system for economic development as well as the reduction and mitigation of sanitary sewer overflows and surcharging in the existing sanitary sewer collection system as required by the Consent Decree. Areas of work identified for potential improvements include sewer infrastructure serving and areas tributary to these subbasins. Work may include sewer rehabilitation, sewer construction, pump station facilities, wet weather storage/equalization improvements, source control and other collection system improvements as determined necessary by ongoing planning and engineering studies of the areas. Projects and/or areas identified in the capital plan to date are: Nebraska, Rothman and Tamarack, upper Maumee interceptor system and sewer subbasins, upper St Joseph interceptor system and sewer subbasins, Spy Run interceptor system and subbasins, lower St Marys interceptor system and subbasins and the Trier Ditch interceptor system and subbasins.

**Collection System Improvements - Repair & Replacement Program**

The goal of the Sewer Repair and Replacement Program is to develop, implement and monitor sewer repair/replacement strategies to proactively, following standard industry asset management principles, identify deteriorating or assets in the sewer collection system that are reaching their useful life. It is also to coordinate review and analysis of sewer operation and maintenance data to select and prioritize collection system renewal, repair and replacement projects as per the Consent Decree and the City's regulatory commitments. Cured in Place Piping (CIPP) and other trenchless construction technologies are often utilized for renewal and repair of piping and manholes, but sometimes the construction of improvements requires open cut installation and excavation for new underground sewer infrastructure (collectively, "Project"), pursuant to plans and specifications prepared by consulting engineers of the City.

The total estimated cost of the Project will not exceed \$310,000,000. The Ordinance further directed that the cost of the Project be financed by the issuance of revenue bonds, in one or more series, in an amount not to exceed \$310,000,000 which bonds will be payable from net revenues of the sewage works, on a parity with certain outstanding sewage works revenue bonds of the City. The bonds will be sold at a private sale to the Indiana Finance Authority or by competitive bidding, at an interest rate not to exceed 6.0% per annum, and will mature annually on August 1 of each year, providing that beginning on February 1, 2034, principal shall be payable semiannually on February 1 and August 1 over a period ending no later than August 1, 2060. Copies of the plans, specifications, cost estimates and of the Ordinance are on file in the office of the Controller and are available for inspection by any interested parties during regular business hours. Objections to said project and the bonds may be filed in the time and manner provided by the Indiana Code, Title 36, Article 9, Chapter 23.

Dated this 3rd day of March, 2020.

/s/ Lana R. Keesling  
Clerk, City of Fort Wayne, Indiana

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cluding collector and trench/conveyance sewers, storage facilities, pump stations and force mains, floatables control and outfall modifications. The Foster Park improvements are required per the Consent Decree to be operational by the end of 2025.

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Dated this 3rd day of March, 2020.

/s/ Lana R. Keesling

Clerk, City of Fort Wayne, Indiana

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Rodrick Jawaun Powers-Owens (Alleged Father) AND ANY UNKNOWN ALLEGED FATHERS

#### SUMMONS FOR SERVICE BY PUBLICATION & NOTICE OF CHILD IN NEED OF SERVICES HEARING

TO: Rodrick Jawaun Powers-Owens and Any Unknown Alleged Father Whereabouts unknown

to the above noted parent whose whereabouts are unknown, as well as Any Unknown Alleged Fathers, whose whereabouts are also unknown, that the Indiana Department of Child Services has filed its Verified Petition Alleging the child to be in Need of Services, in accordance with I.C. 31-34-9-3, and that an adjudication hearing has been scheduled with the Court.

YOU ARE HEREBY COMMANDED to appear before the Judge of the Allen Superior Court, 715 S. Calhoun Street, Fort Wayne, IN 46802, 260-449-7289 for a(n) Additional, Initial and Dispositional on 4/30/2020 at 8:00 AM At said hearing, the Court will consider the Petition and evidence thereon and will render its decision as to whether the above named minor child is child in need of services and shall enter adjudication accordingly. Your failure to appear after lawful notice will be deemed as your default and waiver to be present at said hearing.

UPON ENTRY OF SAID ADJUDICATION, A DISPOSITIONAL HEARING will be held in which the Court will consider (1) Alternatives for the care, treatment, or rehabilitation for the child; (2) The necessity, nature, and extent of your participation in the program of care, treatment, or rehabilitation for the child; and (3) Your financial responsibility for any services provided for the parent, guardian or custodian of the child including child support.

YOU MUST RESPOND by appearing in person or by an attorney within thirty (30) days after the last publication of this notice, and in the event you fail to do so, an adjudication on said petition, judgment by default may be entered against you, or the court may proceed in your absence, without further notice.

14th day of February, 2020

Christopher M. Nancarrow  
Clerk, Circuit/Superior Courts  
(Seal)

Jeremy Herring, 34057-71  
Attorney, Indiana Department of Child Services  
201 E. Rudisill Blvd  
Suite 200  
Fort Wayne, IN 46806  
Work Phone: 260-210-2636  
2--25/3--3--10 1381110 hspaxlp

**BILL NO. S-20-01-36**

**REPORT OF COMMITTEE ON FINANCE**

**February 18, 2020**

***Sharon Tucker Chair***

***Jason Arp Co-Chair***

***All Council Members***

An Ordinance of The Common Council of the City Of Fort Wayne, Indiana, Authorizing the current refunding by the City of certain outstanding Sewage Works Revenue Bonds, the Acquisition and Installation of certain improvements to the City's Sewage Works, and the Collection, Segregation and Distribution of the Revenues of such Sewage Works and other related matters, and repealing Ordinances inconsistent herewith

*Not to exceed \$310,000,000*

**COMMITTEE ON FINANCE HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance**

DO PASS

DO NOT PASS

ABSTAIN

NO REC

_____	_____	_____	_____
_____	_____	_____	_____
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**LANA R. KEESLING  
CITY CLERK**



**REPORT OF COMMITTEE ON FINANCE**

**February 25, 2020**

***Sharon Tucker Chair***



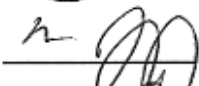
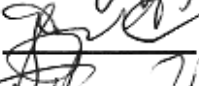
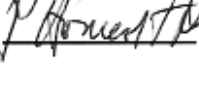

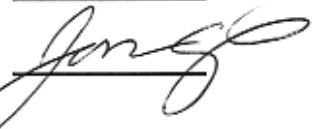


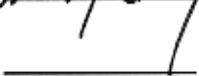
***Jason Arp Co-Chair***

***All Council Members***


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*Not to exceed \$310,000,000.00*

**COMMITTEE ON FINANCE HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance**

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
		_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
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	_____	_____	_____
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	_____	_____	_____

**LANA R. KEESLING  
CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilperson Tucker.

Read the second time by title and referred to the Finance Committee.

Read the third time in full and on motion by Councilperson Tucker, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHAMBERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TUCKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: February 25, 2020

  
LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Special Ordinance No. S-20-01-36 on the 25th day of February, 2020

ATTEST:

  
LANA R. KEESLING  
CITY CLERK

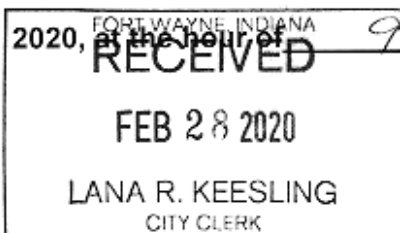
  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th  
of February 2020, at the hour of 10:30 o'clock A.M. E.S.T.

  
LANA R. KEESLING, CITY CLERK

Approved and signed by me this 28<sup>th</sup> day of FEBRUARY

2020, at the hour of 9:00 o'clock AM E.S.T.



  
THOMAS C. HENRY, MAYOR