

CITY OF MYRTLE BEACH
COUNTY OF HORRY
STATE OF SOUTH CAROLINA

PROVIDING FOR THE ISSUANCE AND SALE
OF REVENUE BONDS OF THE STORMWATER
SYSTEM OF THE CITY OF MYRTLE BEACH,
SOUTH CAROLINA; AND OTHER MATTERS
RELATING THERETO.

Enacted October 24, 2023

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1 BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MYRTLE BEACH,
2 SOUTH CAROLINA, IN MEETING DULY ASSEMBLED, THAT:

3
4 ARTICLE I

5
6 FINDINGS AND DETERMINATIONS

7
8 Section 1.01 Findings and Determinations.
9

10 Incident to the enactment of this bond ordinance (this “**Bond Ordinance**,” as such term
11 is more particularly defined herein), the City Council of the City of Myrtle Beach (the “**City**
12 **Council**”), the governing body of the City of Myrtle Beach, South Carolina (the “**City**”), finds
13 that the facts set forth in this Article exist, and the statements herein are in all respects true
14 and correct:
15

16 (A) The City is a municipal corporation and a political subdivision of the State
17 of South Carolina (the “**State**”), located in Horry County, South Carolina (the “**County**”),
18 and as such possesses all general powers granted by the Constitution and laws of the
19 State to municipal corporations, including the power to operate utility systems both
20 within and without the corporate limits of the City.
21

22 (B) The Stormwater Management and Sediment Reduction Act (Section 48-
23 14-10 et seq., Code of Laws of South Carolina 1976, as amended) authorizes the
24 establishment by a municipality of a stormwater management utility which the City has
25 heretofore established (the “**System**,” as such term is more particularly defined herein).
26 Previously, the City had maintained a system of stormwater management facilities,
27 including but not limited to, inlets, conduits, manholes, channels, ditches, drainage
28 facilities, easements, retention and detention basins, infiltration facilities, and other
29 components as well as natural waterways. The City hereby confirms the establishment
30 of the System as a stormwater management utility. The System is operated on a fiscal
31 year which begins on July 1 and ends June 30.
32

33 (C) Article X, Section 14 of the Constitution of the State of South Carolina
34 1895, as amended, provides that a municipality may incur indebtedness payable solely
35 from a revenue-producing project which source does not involve revenues from any tax
36 or license.
37

38 (D) Title 6, Chapter 21, Code of Laws of South Carolina 1976, as amended
39 (the “**Act**,” as such term is more particularly defined herein) permits the incurrence of
40 debt for the purpose of financing stormwater drainage facilities and permits the securing
41 of such indebtedness with a pledge of the revenues from the operation of the System.
42

43 (E) By Ordinance Nos. 2004-86, 2009-61, 2014-30 and 2023-35, enacted on
44 December 14, 2004, September 8, 2009, May 13, 2014 and August 22, 2023, respectively
45 (the “**Existing Ordinances**,” as such term is more particularly defined herein), the City
46 Council provided for the issuance of various series of revenue obligations (the “**Existing**
47 **Notes**,” as such term is more particularly defined herein) payable from and secured by
48 a pledge of the revenues from the operation of the System (the “**Revenues**,” as such
49 term is more particularly defined herein), and the City Council desires to authorize the
50 issuance of additional bonds and other obligations (the “**Bonds**,” a more particularly

defined herein) payable from and secured by a pledge of the Revenues on a parity in all respects to the pledge of the Revenues securing the Existing Notes.

(F) The Council is enacting this Ordinance in order to:

(i) confirm the establishment of the System as a stormwater drainage system under the Act;

(ii) authorize the issuance and delivery from time to time of Bonds and the undertakings and agreements of the City therein set forth; and

(iii) authorize the execution and delivery by, and on behalf of, the City of such other agreements and certificates and the taking of such other action by the City and its officers as shall be necessary or desirable in connection with the issuance of Bonds and in order to carry out the intent of this Bond Ordinance.

(G) This Ordinance is enacted under and pursuant to the Act.

(H) The Revenues pledged under this Ordinance are not encumbered by any lien and charge thereon or pledge thereof, other than the lien and charge thereon and pledge created by the Existing Ordinances for payment and security of the Existing Notes and this Ordinance for payment and security of the Bonds.

ARTICLE II

DEFINITIONS, CONSTRUCTION AND INTERPRETATIONS

Section 2.01 Definition of Ordinance.

This ordinance may be hereafter cited and is hereinafter sometimes referred to as the Bond Ordinance; such term shall include all ordinances supplemental to, or amendatory of, this Bond Ordinance.

Section 2.02 Defined Terms.

In this Bond Ordinance, terms defined in Article I shall have the meaning assigned therein, and unless a different meaning clearly appears from the context, the following terms shall have the meanings assigned below:

“Accommodations Fees” shall mean the accommodations fees imposed by the Accommodations Fees Ordinance.

“Accommodations Fees Ordinance” shall mean Ordinance No. 2001-58 of the City Council enacted on January 8, 2002, as such Ordinance may from time to time hereafter be amended.

“Accountants” shall mean an independent firm of certified public accountants of suitable standing selected by the City who audit the books, records, and accounts of the City.

1 **“Accounting Principles”** shall mean generally accepted accounting principles and
2 practices applicable to governmental entities, including those applicable to governmentally
3 owned and operating utility systems such as the System.
4

5 **“Accreted Value”** shall mean the amounts set forth in or the amounts determined in
6 the manner set forth in, a Series Ordinance, authorizing the issuance of Bonds in the form of
7 Capital Appreciation Bonds.
8

9 **“Act”** shall mean Title 6, Chapter 21, Code of Laws of South Carolina 1976, as amended,
10 and all other statutory authorizations as may be available from time to time authorizing and
11 enabling the City to enact this Bond Ordinance and issue Bonds hereunder, all as may be
12 amended from time to time.
13

14 **“Annual Budget”** shall mean, for a Fiscal Year, the budget or amended budget of the
15 City adopted with respect to such Fiscal Year.
16

17 **“Annual Principal and Interest Requirement”** shall mean, with respect to any
18 particular Fiscal Year and to a Series of Bonds Outstanding, an amount (other than amounts
19 paid from proceeds of Bonds) equal to the sum of (i) all interest payable on such Series of Bonds
20 during such Fiscal Year, plus (ii) any Principal Installment of such Series of Bonds during such
21 Fiscal Year, minus (iii) any Interest Payment Subsidies received by or on deposit with the City
22 for such Series of Bonds during such Fiscal Year and used to pay debt service on such Series of
23 Bonds during such Fiscal Year.
24

25 For purposes of computing the Annual Principal and Interest Requirement:
26

27 (a) the rate of interest used to determine (i) above shall be a rate per annum equal
28 to (1) with respect to any Series of Bonds which bear interest at a fixed rate, the rate of interest
29 borne or to be borne by such Bonds, (2) with respect to any Series of Variable Rate Bonds, the
30 actual rate of interest on the date of calculation; provided however, if the Variable Rate Bonds
31 have been Outstanding for at least 12 months, the average rate over the 12 months immediately
32 preceding the date of calculation, and (3) with respect to any Series of Bonds in which 25% or
33 more of the principal installments are payable in a single Fiscal Year described in (b) below,
34 the interest rate on such Bonds as of the date calculated.
35

36 (b) the Principal Installments for each Series of Bonds used to determine (ii) above
37 will be the actual planned Principal Installments, except as for any Series of Bonds in which
38 25% or more of the Principal Installments are payable in a single Fiscal Year, the Principal
39 Installment in such year will be assumed to be the result derived by reamortizing the
40 outstanding principal due on such Series of Bonds over a period of 20 years (or if the term
41 thereof exceeds 20 years, over a period equal to such term) on a level debt service basis at an
42 interest rate equal to the rate borne on such Bonds on the date calculated.
43

44 (c) the amounts available in the Debt Service Reserve Fund established for a Series
45 of Bonds may be applied against the interest payable on and the Principal Installments due on
46 such Series of Bonds in the last Fiscal Year that such Series of Bonds is Outstanding.
47

48 **“Authorized Investments”** shall mean, within the limitations set forth herein, any
49 investments now or hereafter permitted under Section 6-5-10 Code of Laws of South Carolina
50 1976, as amended, or any successor or similar statute, and shall also include the South Carolina

1 Pooled Investment Fund established at Sections 6-6-10 to 6-6-40 Code of Laws of South Carolina
2 1976, as amended, or any successor or similar statute and as the same may be further limited
3 pursuant to the provisions of a Series Ordinance.
4

5 **“Authorized Officers”** means the Mayor, Mayor Pro Tem, City Manager, Chief Financial
6 Officer, City Clerk, Deputy City Clerk and City Attorney, or any other official authorized by the
7 City Council to act on behalf of the City.
8

9 **“Bond Counsel”** shall mean an attorney or firm of attorneys of nationally recognized
10 standing in the field of law relating to municipal, state and public agency financing, selected
11 by the City.
12

13 **“Bond Ordinance”** shall mean this Bond Ordinance, as it may be amended from time to
14 time.
15

16 **“Bond Payment Date”** shall mean an Interest Payment Date, a Principal Payment Date
17 or both an Interest Payment Date and a Principal Payment Date.
18

19 **“Bondholder”** or **“Holder”**, or any similar term, when used with reference to a Bond or
20 Bonds, shall mean any person who shall be the registered owner of any Outstanding Bond.
21

22 **“Bonds”** shall mean the Existing Notes and any other indebtedness or obligations (issued
23 as tax-exempt or taxable obligations) including those entered into under the provisions of long-
24 term contracts payable from the revenues of the System, issued in accordance with the
25 provisions of the Act, this Bond Ordinance and a Series Ordinance, excluding indebtedness
26 incurred in accordance with Article VI hereof.
27

28 **“Business Day”** shall mean, except as set forth in a Series Ordinance with respect to
29 the Series of Bonds issued thereunder, any day other than a Saturday, a Sunday, a day on which
30 banking institutions in the State or in the State of New York are required or authorized by law
31 (including executive orders) to close or a day on which the United States federal reserve
32 payment system is not operational.
33

34 **“Capital Appreciation Bonds”** shall mean Bonds that bear interest payable only at
35 maturity or payable prior to maturity only on the redemption dates set forth in a Series
36 Ordinance, and in the amounts determined by reference to the Accreted Value established in
37 accordance with the provisions of the Series Ordinance authorizing the issuance of such Capital
38 Appreciation Bonds.
39

40 **“Chief Financial Officer”** shall mean the Chief Financial Officer of the City. The term
41 shall include any other officer or employee of the City designated to serve in such role.
42

43 **“City”** means the City of Myrtle Beach, South Carolina.
44

45 **“City Council”** means the City Council of the City of Myrtle Beach, the governing body
46 of the City.
47

48 **“City Manager”** shall mean the City Manager of the City. The term shall include any
49 Assistant City Manager or interim City Manager designated to fulfil such role.
50

1 **“Clerk”** shall mean the City Clerk. The term shall include any Deputy City Clerk or such
2 other person designated by the City Manager to fulfill such role.

3
4 **“Code”** shall mean the Internal Revenue Code of 1986, as amended, and the Treasury
5 Regulations issued thereunder, in each case, as from time to time in force.

6
7 **“Contingent Fund”** shall mean the fund so designated pursuant to the Existing
8 Ordinances and continued hereby designed to provide for contingencies and for improvements,
9 betterments and extensions of the System, as provided in Section 7.07 hereof.

10
11 **“Date of Issue”** shall mean that date established in any Series Ordinance from which
12 interest shall accrue on the Bonds of the applicable Series.

13
14 **“Debt Service”** shall mean, with respect to each Series of Bonds and with respect to
15 any particular Fiscal Year, the aggregate of the amounts to be paid or set aside (or estimated
16 to be required to be paid or set aside) in the Debt Service Fund in such Fiscal Year for the
17 payment of the Principal Installments, redemption premium, if any, and interest (to the extent
18 not paid or expected to be paid from proceeds of such Bonds or earnings thereon) on such Series
19 of Bonds.

20
21 **“Debt Service Fund”** shall mean the fund of that name established pursuant to the
22 Existing Ordinances and continued hereby, which fund is designed to provide for the payment
23 of the principal of, premium, if any, and interest on all Bonds Outstanding and issued pursuant
24 hereto, as the same respectively fall due, as provided in Section 7.03 hereof. The Debt Service
25 Fund constitutes the “bond and interest redemption fund” as described in the Act.

26
27 **“Debt Service Fund Account”** shall mean each Note Payment Fund and each of the
28 accounts of that name created in the Debt Service Fund and established for each Series of Bonds
29 issued under the terms hereof. Within each Debt Service Fund Account, the City in the
30 applicable Series Ordinance may, but is not required, to further create an interest sub-account,
31 principal sub-account and bond redemption sub-account with respect to each such Series of
32 Bonds.

33
34 **“Debt Service Reserve Fund”** shall mean each Existing Debt Service Reserve Fund and
35 each of the funds, if any, so designated and designed (i) to secure the timely payment of the
36 principal of and interest on the respective Series of Bonds Outstanding and issued pursuant to
37 this Bond Ordinance and the applicable Series Ordinance, and (ii) to provide for the redemption
38 of such Series of Bonds Outstanding prior to their stated maturity, as provided in Section 7.04
39 hereof.

40
41 **“Defeasance Obligations,”** unless otherwise provided in a Series Ordinance for a
42 particular Series of Bonds, shall mean non-callable: (i) Government Obligations; (ii) evidences
43 of ownership of a proportionate interest in specified Government Obligations, which
44 Government Obligations are held by a bank or trust company organized and existing under the
45 laws of the United States of America or any state thereof in the capacity of custodian; and (iii)
46 non-callable, U.S. Treasury Securities - State and Local Government Series Securities.

47
48 **“Depository”** shall mean any bank or trust company selected by the City as a depository
49 of moneys or securities held under the provisions of this Bond Ordinance and may include the
50 Trustee.

1
2 **“Depreciation Fund”** shall mean the fund so designated pursuant to the Existing
3 Ordinances and continued hereby, designed to provide for the replacement of depreciated or
4 obsolete parts of the System and for improvements, betterments and extensions of the System,
5 as provided in Section 7.06 hereof.
6

7 **“Electronic Means”** shall mean the following communications methods: S.W.I.F.T., e-
8 mail, facsimile transmission, secure electronic transmission containing applicable authorization
9 codes, passwords and/or authentication keys, or another method or system specified by the
10 Trustee as available for use in connection with its services hereunder.
11

12 **“Events of Default”** shall mean those events set forth in Section 13.01 of this Bond
13 Ordinance.
14

15 **“Existing Debt Service Reserve Fund”** shall mean each Debt Service Reserve Fund
16 designated as such and created under the Existing Ordinances.
17

18 **“Existing Loan Agreements”** shall mean the Loan Agreements dated as of December
19 15, 2004, September 17, 2009, May 29, 2014, and August 31, 2023, each between the City and
20 the Water Quality Authority, as the same may be amended from time to time.
21

22 **“Existing Notes”** shall mean the (i) \$11,075,871 Promissory Note, dated December 15,
23 2004, of the City, payable to the Water Quality Authority; (ii) \$3,038,104 Promissory Note,
24 dated September 17, 2009, of the City, payable to the Water Quality Authority; (iii) \$11,942,107
25 Promissory Note, dated May 29, 2014, of the City, payable to the Water Quality Authority; and
26 (iv) \$612,600 Promissory Note, dated August 31, 2023, of the City, payable to the Water Quality
27 Authority, as the same may be amended from time to time.
28

29 **“Existing Ordinance”** shall mean each of Ordinance No. 2004-86 of the City Council
30 enacted on December 14, 2004, Ordinance No. 2009-61 of the City Council enacted on
31 September 8, 2009, Ordinance No. 2014-30 of the City Council enacted on May 13, 2014, and
32 Ordinance No. 2023-35 of the City Council enacted on August 22, 2023, as the same may be
33 amended from time to time.
34

35 **“Facilities”** shall mean (i) all of the physical assets of the System, and all parts thereof,
36 now existing; (ii) any physical assets which may thereafter be added to the System, or any part
37 thereof, by any additions, replacements, or betterments; and (iii) any capacity incremental to
38 that of the then existing System acquired by the City in physical assets not owned by it.
39

40 **“Fiduciary” or “Fiduciaries”** shall mean the Trustee and any Registrar and any other
41 agent of the City appointed pursuant to the authorizations of this Bond Ordinance or any Series
42 Ordinance or any or all of them, as may be appropriate.
43

44 **“Fiscal Year”** shall mean the period of 12 calendar months, beginning on July 1 of each
45 year, and ending on June 30 of the following year, unless the same shall have been changed
46 pursuant to the authorization of Section 3.01 hereof.
47

48 **“Government Obligations”** shall mean: (a) direct obligations of the United States of
49 America for the payment of which the full faith and credit of the United States of America are
50 pledged; (b) obligations, the payment of the principal (if any), or the interest (if any) on which

1 is fully guaranteed as a full faith and credit obligation of the United States of America; and (c)
2 obligations issued by the Federal Home Loan Bank and/or the Federal National Mortgage
3 Association as permitted by Section 6-5-10(a)(2) Code of Laws of South Carolina 1976, as
4 amended.

5
6 **“Gross Revenue Fund”** shall mean the special revenue fund of the City so designated
7 pursuant to the Existing Ordinances and continued hereby, established and maintained for the
8 operation of the System, as provided in Section 7.02 hereof.

9
10 **“Independent Consultant”** shall mean such firm or firms, professional engineers,
11 architects, financial advisors, accountants, rate consultants or other professionals who are
12 nationally recognized and have a favorable reputation for consulting services for utility systems
13 similar to the System. Such Independent Consultant shall not be an employee of the City and
14 shall be engaged by the City to perform the tasks set forth to be performed by such Independent
15 Consultant under the provisions of this Bond Ordinance.

16
17 **“Insurance Consultant”** shall mean a person or firm who is not, and no member,
18 director, officer or employee of which is, an officer or employee of the City, which is qualified
19 to survey risks and to recommend insurance coverage for public utilities and services and
20 organizations engaged in such operations. The Insurance Consultant shall be selected by the
21 City.

22
23 **“Insurer,”** with respect to any Series of Bonds, shall mean an insurance company that
24 has written a Municipal Bond Insurance Policy covering such Series of Bonds.

25
26 **“Interest Payment Date”** shall mean, for a particular Series of Bonds, such dates as
27 may be established in accordance with the Series Ordinance authorizing such Bonds.

28
29 **“Interest Payment Subsidies”** shall mean the refundable tax credit subsidies payable
30 to the City from the federal government under any section of the Code that authorizes such tax
31 credits or sums borrowed in a Series of Bonds for the purpose of paying all or a portion of the
32 interest due on a Series of Bonds on specific Bond Payment Dates, as applicable.

33
34 **“Junior Lien Bonds”** shall mean any revenue bonds, long-term contracts, or other
35 obligations issued by the City which are secured by pledges of the revenues of the System which
36 are junior and subordinate in all respects to the pledges made to secure Bonds.

37
38 **“Mayor”** shall mean the Mayor of the City. The term shall include the acting Mayor or
39 the Mayor Pro Tempore whenever, by reason of absence, illness or other reason, the person
40 who is the Mayor is unable to act.

41
42 **“Municipal Bond Insurance Policy”** shall mean any municipal bond insurance policy
43 insuring the payment, when due, of the principal of and interest on a Series of Bonds.

44
45 **“Non-System Account”** shall mean the account within the Gross Revenue Fund so
46 designated pursuant to the Existing Ordinances and continued hereby, as provided in Section
47 7.02 hereof.

48
49 **“Note Payment Fund”** shall mean each fund of that name established pursuant to the
50 Existing Ordinances.

1
2 **“Office of State Treasurer”** shall mean the Office of State Treasurer of the State.
3

4 **“Operation and Maintenance Expenses”** shall mean, for the period in question and
5 acting according to Accounting Principles, all expenses of administration and operation and
6 such expenses for maintenance as may be necessary to preserve the System and the Facilities
7 in good repair and working order. No expense paid from a source other than Revenues shall be
8 treated as an Operation and Maintenance Expense.
9

10 **“Operation and Maintenance Fund”** shall mean the fund so designated pursuant to the
11 Existing Ordinances and continued hereby, which is designed to provide for the payment of all
12 Operation and Maintenance Expenses, as provided in Section 7.05 hereof.
13

14 **“Outstanding,”** when used with reference to any Bonds, subject to Section 17.01 hereof
15 and, with respect to the Existing Notes, the terms of the applicable Existing Ordinance, and
16 except as may be modified for any Series of Bonds pursuant to the provisions of a Series
17 Ordinance, shall mean, as of any date, all such Bonds theretofore or then being authenticated
18 and delivered except:
19

20 (a) Bonds cancelled at or prior to such date;
21

22 (b) Bonds in lieu of or in substitution for which other Bonds shall have
23 been executed and delivered;
24

25 (c) Bonds deemed to have been paid as provided in Article XVI hereof;
26 and
27

28 (d) for purposes of any consent or other action to be taken by the
29 holders of a specified percentage of Bonds, Bonds, as to which a Responsible
30 Officer has actual knowledge, held by, or for the account of, the City, or by any
31 person controlling, controlled by, or under common control with the City (unless
32 all Bonds are so held).
33

34 **“Paying Agent”** shall mean the financial institution which is authorized by the City
35 Council to pay the principal of or interest on and redemption premium, if any, on any Bonds
36 and having the duties, responsibilities and rights provided for in the applicable Existing
37 Ordinance, this Bond Ordinance and any Series Ordinance, and its successor or successors and
38 any other corporation or association which at any time may be substituted in its place pursuant
39 to this Bond Ordinance. Pursuant to the provisions of Section 15.02 of this Bond Ordinance, the
40 Trustee shall serve as the Paying Agent unless otherwise set forth in an Existing Ordinance or a
41 Series Ordinance.
42

43 **“Principal Installment”** shall mean, as of any date of calculation, (i) the aggregate
44 principal amount of Outstanding Bonds due on a Bond Payment Date, reduced by the aggregate
45 principal amount of such Bonds which would be retired by reason of the payment when due of,
46 and application in accordance with, any mandatory sinking fund payment payable before such
47 future date, plus (ii) any mandatory sinking fund payment due on such certain future date,
48 together with the aggregate amount of the premiums, if any, applicable to such mandatory
49 sinking fund payments, plus (iii) with respect to any Capital Appreciation Bonds required to be
50 paid on such certain date, the Accreted Value as of such certain date of such Capital

1 Appreciation Bonds; and in this latter respect, any reference to “principal” of Bonds in this
2 Bond Ordinance shall mean, with respect to Capital Appreciation Bonds, the Accreted Value of
3 such Capital Appreciation Bonds as of the date of calculation.
4

5 **“Principal Payment Date”** shall mean, for a particular Series of Bonds, on such dates
6 as may be established in accordance with the Series Ordinance authorizing such Bonds.
7

8 **“Project Fund”** shall mean any fund created by and designated as such in a Series
9 Ordinance, in accordance with Section 7.08 hereof.
10

11 **“Record Date”** shall mean the 15th day of the month immediately preceding each Bond
12 Payment Date (or such other time or times as shall be prescribed by any applicable Series
13 Ordinance).
14

15 **“Redemption Price”** shall mean, with respect to Bonds of any Series or a portion
16 thereof, the principal amount of such Bonds or portion thereof plus the applicable premium, if
17 any, and accrued interest payable upon redemption thereof in the manner contemplated in
18 accordance with its terms, the applicable Existing Ordinance, this Bond Ordinance and any
19 applicable Series Ordinance.
20

21 **“Registrar”** shall mean the Trustee or any bank, trust company, or national banking
22 association which is authorized by the City to maintain an accurate list of those who from time
23 to time shall be the Holders of Bonds of a particular Series and to effect the transfer of such
24 Bonds in accordance with the provisions of the applicable Existing Ordinance or this Bond
25 Ordinance and having the duties, responsibilities, and rights provided for in the applicable
26 Existing Ordinance or this Bond Ordinance and any Series Ordinance, and its successor or
27 successors and any other corporation or association which at any time may be substituted in its
28 place pursuant to the applicable Existing Ordinance or this Bond Ordinance; however, the City
29 Council may, pursuant to a Series Ordinance, authorize the City to serve as Registrar for the
30 applicable Series of Bonds, in lieu of the institutions referred to above.
31

32 **“Reserve Requirement”** shall mean as of any date of calculation, the debt service
33 reserve requirement, if any, established by an Existing Ordinance or a Series Ordinance
34 authorizing a Series of Bonds.
35

36 **“Responsible Officer”** means, when used with respect to the Trustee, any vice
37 president, assistant vice president, senior associate, associate or other officer of the Trustee
38 having direct responsibility for the administration of this Bond Ordinance.
39

40 **“Revenues”** shall mean all receipts, income, revenues, fees and other charges to be
41 levied and collected in connection with, and all other income and receipts of whatever kind or
42 character derived by the City from, the establishment and operation of the System, including,
43 but not limited to, stormwater utility fees and charges, interest earnings and other earnings or
44 investments, as such earnings or investments are computed in accordance with Accounting
45 Principles, but excluding the proceeds of any grants or debt, contributions in aid of
46 construction, gains or losses on extinguishment of debt.
47

48 **“Securities Depository”** shall mean The Depository Trust Company, New York, New
49 York, or any other recognized securities depository selected by the City, which securities
50 depository maintains a book-entry system in respect of the Bonds of any Series, and shall include

1 any substitute for or successor to the securities depository initially acting as Securities
2 Depository.

3
4 **“Securities Depository Nominee”** shall mean, as to any Securities Depository, such
5 Securities Depository or the nominee of such Securities Depository in whose name there shall
6 be registered on the registration books maintained by any Registrar, the Bond certificates to
7 be delivered to and immobilized at such Securities Depository during the continuation with such
8 Securities Depository of participation in its book-entry system.

9
10 **“Serial Bonds”** shall mean the Bonds of any Series which are stated to mature in
11 installments and for which there are no mandatory sinking fund provisions.

12
13 **“Series”** shall mean all of the Bonds authenticated and delivered on original issuance in
14 a simultaneous transaction and designated as a single Series by the authorizing Existing
15 Ordinance or Series Ordinance, and any Bonds thereafter authenticated and delivered in lieu
16 of or in substitution for (but not to refund) such Bonds as herein provided, regardless of
17 variations in maturity, interest rate or other provisions.

18
19 **“Series Ordinance”** shall mean an ordinance of City Council authorizing the issuance of
20 a Series or multiple Series of Bonds pursuant to this Bond Ordinance in accordance with the
21 terms and provisions hereof, enacted by City Council in accordance with Article IV hereof.

22
23 **“State”** shall mean the State of South Carolina.

24
25 **“System”** shall mean the stormwater drainage system of the City, as the same is now
26 constituted, all properties, real and personal, and matters and things used or useful in the
27 maintenance, operation or functioning thereof, all apparatus and equipment used in connection
28 therewith, and all replacements, enlargements, improvements, extensions, additions and
29 betterments that may be made thereto, and any other utility system with which the System
30 may hereafter be combined pursuant to ordinance of Council.

31
32 **“System Account”** shall mean the account with the Gross Revenue Fund so designated
33 pursuant to the Existing Ordinances and continued hereby, as provided in Section 7.02 hereof.

34
35 **“Term Bonds”** shall mean the Bonds of any Series which are stated to mature in a single
36 year and which are subject to mandatory sinking fund redemption prior to the stated maturity
37 date.

38
39 **“Trustee”** shall mean U.S. Bank Trust Company, National Association, serving as Trustee
40 pursuant to this Bond Ordinance and which shall have such other duties, privileges and functions
41 as are set forth herein. Such term shall include any successor and any corporation or association
42 resulting from or surviving any consolidation or merger to which it or its successors may be a
43 party and any successor trustee at the time serving as successor trustee hereunder.

44
45 **“Variable Rate Bonds”** shall mean, for any period of time, any Bonds which during such
46 period bear interest at a variable rate; provided that Bonds, the interest rate on which has
47 been fixed for the remainder of the term thereof, shall no longer be Variable Rate Bonds.

48
49 **“Water Quality Authority”** shall mean the South Carolina Water Quality Revolving Fund
50 Authority.

1
2 Section 2.03 Interpretations.
3

4 In this Bond Ordinance, unless the context otherwise requires:

5
6 (A) Articles, Sections and paragraphs referred to by number shall mean the
7 corresponding Articles, Sections and paragraphs of this Bond Ordinance.
8

9 (B) Words of the masculine gender shall be deemed and construed to include
10 correlative words of the feminine and neuter genders. Words importing the singular
11 number shall include the plural number and vice versa, and words importing persons
12 shall include firms, associations, partnerships (including limited partnerships),
13 trusts, corporations, or other legal entities, including public bodies, as well as
14 natural persons.
15

16 (C) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and
17 any similar terms, as used in this Bond Ordinance refer to this Bond Ordinance or
18 Sections or paragraphs of this Bond Ordinance and the term “hereafter” shall mean
19 any date after the date of enactment of this Bond Ordinance.
20

21 (D) Unless otherwise specified herein, all accounting terms used herein
22 without definition shall be interpreted, all accounting determinations hereunder
23 shall be made, and all financial statements required to be delivered hereunder shall
24 be prepared, in accordance with Accounting Principles. In the event of changes to
25 Accounting Principles which become effective after the date of enactment of this
26 Bond Ordinance, the City may in good faith effect appropriate amendments to this
27 Bond Ordinance so as to perpetuate the meaning and effect of Accounting Principles
28 as in effect on the date of enactment of this Bond Ordinance.
29

30 (E) References to the payment of principal of Bonds shall be deemed to
31 include payment of principal both at maturity and by mandatory redemption
32 pursuant to any sinking fund payment obligations.
33

34 (F) Any Fiduciary shall be deemed to hold an Authorized Investment in which
35 money is invested pursuant to the provisions of this Bond Ordinance, even though
36 such Authorized Investment is evidenced only by a book entry or similar record of
37 investment.
38

39 **ARTICLE III**

40 **FISCAL YEAR**

41
42
43 Section 3.01 Establishment and Modification of Fiscal Year.
44

45 The System shall be operated on a Fiscal Year basis, which shall commence on the 1st
46 day of July of each year and shall end on the 30th day of June of the following year.
47

1 ARTICLE IV

2
3 THE BONDS

4
5 Section 4.01 Authorization for Bonds in Series.

6
7 On and after the date of enactment of this Bond Ordinance, (A) From time to time and
8 for the purposes of:

9
10 (1) Obtaining funds for the acquiring, purchasing, constructing, improving,
11 enlarging, and repairing of the System and improvements and additions thereto,
12 including the recoupment or reimbursement of funds already so expended;

13
14 (2) Providing funds for the payment of any bond anticipation note or notes
15 issued in order to defray the costs of expansions, additions and improvements to the
16 System and that were issued in anticipation of the issuance and sale of Bonds;

17
18 (3) Refunding Bonds or other obligations issued to provide land or facilities
19 or equipment which are or are to become a part of the System or which are or were
20 payable in whole or in part from revenues of the System;

21
22 (4) Providing funds for the payment of interest due on any Bonds;

23
24 (5) Funding any Debt Service Reserve Fund or restoring the value of the cash
25 and securities in any Debt Service Reserve Fund to the amount equal to its Reserve
26 Requirement, and reimbursing amounts owed to any providers of a surety bond, line of
27 credit, insurance policy or letter of credit established pursuant to Section 7.04(E)
28 hereof; and

29
30 (6) Paying the costs of issuance of Bonds, including any credit enhancement
31 therefor;

32
33 but subject to the terms, limitations and conditions herein, the City Council may authorize the
34 issuance of a Series of Bonds by the enactment of a Series Ordinance, and the Bonds of any
35 such Series may be issued and delivered upon compliance with the provisions of this Article.
36 The Bonds of each Series shall be issued in fully registered form, without coupons, and may be
37 issued in the form of book-entry bonds. The Bonds shall bear such title and designation as is
38 provided in the applicable Series Ordinance. Bonds of any Series may be authorized to be issued
39 in the form of Serial Bonds or Term Bonds, with or without mandatory sinking fund payments,
40 or Capital Appreciation Bonds, or a combination of any of them, and may bear interest in
41 whatever manner and payable at whatever frequency as shall be prescribed by the applicable
42 Series Ordinance.

43
44 (B) Each Series Ordinance shall include a determination to the effect that the
45 issuance of such Series of Bonds is necessary to provide funds to be used and expended for one
46 or more of the purposes enumerated in paragraph (A) above. In addition, in each Series
47 Ordinance the City Council shall specify and determine, including, as applicable, necessary
48 delegations to an Authorized Officer or other person:

1 (1) The Date of Issue of such Series of Bonds or the manner or method for
2 determining the same;

3
4 (2) The maximum authorized principal amount of such Series of Bonds, and
5 the manner or method of determining the precise principal amount and the officials
6 authorized to make such determination;

7
8 (3) Bond Payment Dates, the Record Dates, and the date or dates of maturity
9 and the amounts thereof for the Bonds authorized thereby, or the manner of
10 determining such dates and amounts and the officials authorized to make such
11 determinations, and further provided that the Series Ordinance shall specify a date
12 beyond which the final maturity of such Series shall not extend, which date shall not be
13 longer than 45 years from the Date of Issue;

14
15 (4) The purposes for which such Series of Bonds are being issued;

16
17 (5) The title and designation of such Series of Bonds;

18
19 (6) The manner in which such Series of Bonds are to be sold and provisions
20 for the sale thereof;

21
22 (7) The interest rate or rates, or the manner of determining such rate or
23 rates, of the Bonds of such Series, including whether and on what terms there shall be
24 entered by the City an agreement for any form of interest rate swap or similar
25 transaction with respect to such Series or manner or method of making such
26 determination;

27
28 (8) The portion of such Series that are Serial Bonds and that are Term Bonds
29 and that are Capital Appreciation Bonds, if any, including the amount and date of each
30 mandatory redemption or sinking fund installment, if any, required by such Series
31 Ordinance to be paid for the retirement of any such Bonds, or the manner or method of
32 making such designations and determinations;

33
34 (9) The Redemption Price or Redemption Prices and the redemption date or
35 redemption dates and other terms of redemption, if any, applicable to any of the Bonds
36 of such Series for such payments, or the manner or method of determining such dates
37 and prices;

38
39 (10) The Trustee, the Paying Agent, the Registrar and escrow agent (as
40 applicable) for such Bonds and, if other than the Trustee, the manner of determining
41 the Paying Agent, the Registrar and the escrow agent, if such Bonds are refunding Bonds;

42
43 (11) The form or forms of the Bonds of such Series;

44
45 (12) The manner of numbering and lettering, and the denomination or
46 denominations of the Bonds of such Series or the manner or method of determining such
47 matters;

48
49 (13) Whether the Bonds of such Series shall be issued in book-entry form
50 pursuant to Section 4.21 hereof or the manner or method of determining the same;

1
2 (14) The Reserve Requirement, if any, for the Series of Bonds authorized
3 thereby, or method for determining the same;
4

5 (15) The disposition or application of the proceeds of the sale of the Bonds of
6 such Series and the manner of their application;
7

8 (16) That a Debt Service Fund Account (within the Debt Service Fund) shall be
9 established and a Debt Service Reserve Fund may be established for the Series of Bonds,
10 and that a Project Fund be established if the proceeds of the Bonds of any Series are
11 intended to be used for the expansion or improvement of the System, and that a
12 capitalized interest account and/or a cost of issuance account be established as a
13 standalone account or within any such Project Fund or applicable Debt Service Fund
14 Account, as set forth in a Series Ordinance, if interest for any period is to be paid from
15 proceeds of such Series of Bonds;
16

17 (17) An estimate of the cost of any purchasing, constructing, improving,
18 enlarging, or repairing of the System, or any combination thereof, to be funded with
19 the proceeds of the Bonds of such Series; and
20

21 (18) Any other provisions or funds deemed advisable by the City for the Bonds
22 and any other applicable redemption requirement for the Bonds of such Series and the
23 method of satisfying the same and not in conflict with or in substitution for the
24 provisions of this Bond Ordinance.
25

26 Section 4.02 Conditions to Issuance of Bonds of a Series.
27

28 On and after the date of enactment of this Bond Ordinance, all Bonds shall be issued in
29 compliance with the following provisions of this Section 4.02:
30

31 (1) Bonds shall be stated to mature and/or have mandatory or sinking fund
32 redemptions on such day or days in the years and amounts prescribed or determined in
33 the manner approved by the Series Ordinance.
34

35 (2) Bonds shall bear interest at the rate or rates and be payable on the
36 occasions, prescribed or determined in the manner approved by the Series Ordinance.
37

38 (3) Bonds shall be issued for a purpose or purposes set forth in Section 4.01(A)
39 herein.
40

41 (4) There shall exist, on the occasion of the issuance of the Bonds, no default
42 in the payment of the principal of or interest on any Bonds or any Junior Lien Bonds then
43 Outstanding.
44

45 (5) Unless on the date of delivery of such Series of Bonds there shall be on
46 deposit in each Debt Service Reserve Fund the amount equal to the applicable Reserve
47 Requirement, there shall be deposited in such Debt Service Reserve Funds such amounts
48 as may be necessary to make the value of the moneys and securities in each Debt Service
49 Reserve Fund equal to the applicable Reserve Requirement, unless:
50

1 (a) the Series Ordinance and any previous Series Ordinances, or
2 Existing Ordinances, or, if applicable, with respect to an Existing Note, shall have
3 provided for successive monthly payments beginning in the first month following
4 the date of the issuance of the Bonds of any such Series in substantially equal
5 monthly amounts (the "**Monthly Series Payments**") so that within 24 months
6 from the date of issuance of such Series of Bonds, or such shorter period of time
7 as set forth in the Series Ordinance, there shall be in the applicable Debt Service
8 Reserve Fund an amount equal to the applicable Reserve Requirement with
9 respect to such Bonds; and

10
11 (b) there shall be no unremedied defaults of any Monthly Series
12 Payments required to have been made.

13
14 (6) Except in the case of the initial Series of Bonds issued after the date of
15 enactment of this Bond Ordinance, Revenues, as calculated by an Authorized Officer,
16 during the most recent Fiscal Year for which audited financial statements of the System
17 are completed shall not be less than 100% of the maximum Annual Principal and Interest
18 Requirements on all Bonds Outstanding and on such proposed Series of Bonds, with such
19 calculation to be made by the Authorized Officer upon the basis of the audited financial
20 statements of the System for the most recent Fiscal Year that such audited financial
21 statements are available; provided that for purposes of this Section 4.02(6), such
22 Revenues may be adjusted to reflect any rate increases in stormwater user utility fees
23 currently adopted and to be in effect prior to, coincident with or during the current
24 Fiscal Year of the issuance of such proposed Series of Bonds and determined pro forma
25 as though such rate increases had been in continuous effect during such recent Fiscal
26 Year.

27
28 In the event that a Series of Bonds is Outstanding and the City determines to
29 issue a note or other obligation in anticipation of the issuance of a Series of Bonds, for
30 the purposes of complying with the additional bonds test established in this Section
31 4.02(6) above, the Authorized Officer shall project the maturity schedule (including
32 rate, term and principal maturities) of the future Series of Bonds that will be used to
33 pay the note or other obligation at maturity; such future Series of Bonds and the
34 accompanying projections shall qualify as a proposed Series of Bonds for purposes of the
35 additional bonds test in Section 4.02(6) herein. The Authorized Officer making the
36 calculations described in this Section 4.02(6) may, but is not required to, rely on a report
37 or calculation of the Accountants or Independent Consultants.

38
39 Whenever this Section 4.02(6) requires a calculation based on the most recent
40 Fiscal Year for which audited financial statements are available, the City may, in its
41 discretion, provide for a special audit and based upon such special audit, in lieu of the
42 audit for such Fiscal Year, provided such special audit covers 12 consecutive calendar
43 months of the 18 full consecutive calendar months preceding the date of issuance of the
44 proposed Series of Bonds.

45
46 (7) Without complying with Section 4.02(6) hereinabove, in the case of Bonds
47 issued for the purpose of refunding any Bonds, Series of Bonds, or a portion of a Series
48 of Bonds:

1 (a) the Annual Principal and Interest Requirement of the refunding
2 Bonds shall not exceed 110% of the Annual Principal and Interest Requirement of
3 the refunded Bonds for any Fiscal Year until a time subsequent to the last
4 maturity of Bonds issued prior to the issuance of such refunding Bonds which are
5 not refunded and which remain Outstanding following the issuance of the
6 refunding Bonds;

7
8 (b) the additional bonds test prescribed by Section 4.02(6) hereof
9 shall be complied with; or

10
11 (c) as certified by an Independent Consultant, an overall net present
12 value savings results from the issuance of the refunding Bonds.

13
14 (8) If any Series of Bonds shall contain Variable Rate Bonds, the Series
15 Ordinance shall provide for and specify a maximum interest rate on such Bonds.

16
17 (9) All amounts then due under a reimbursement agreement with any
18 provider of a surety bond, line of credit, insurance policy or letter of credit as
19 contemplated under Section 7.04(D) hereof shall have been paid.

20
21 (10) Any Series Ordinance authorizing a Series of Bonds may prescribe, in
22 addition to the requirements set forth in Sections 4.02(6) and 4.02(7) hereof, further
23 requirements that must be met for the issuance of Bonds on a parity with all Series of
24 Bonds then Outstanding.

25
26 (11) If and to the extent required pursuant to the provisions of the Existing
27 Ordinances or Existing Loan Agreements, the consent to the issuance of the Series of
28 Bonds from the Water Quality Authority has been received.

1 Section 4.03 Reliance on Certificates.

2
3 Each of the City, the Trustee and any purchaser of any Bonds shall be entitled to
4 conclusively rely upon certificates or reports of the Accountants, an Authorized Officer, an
5 Independent Consultant and any Insurance Consultant, made in good faith, pursuant to any
6 provision of this Bond Ordinance.
7

8 Section 4.04 Execution of Bonds.

9
10 (A) Unless otherwise prescribed by any Series Ordinance, the Bonds shall be
11 executed in the name of and on behalf of the City by the Mayor or the Mayor Pro
12 Tem, the corporate seal of the City shall be impressed or reproduced thereon and
13 the same shall be attested by the Clerk. Such officers may employ facsimiles of their
14 signatures and also a Series Ordinance may specify the manner of executing the bond
15 by electronic signature.
16

17 (B) In case any officer whose signature or facsimile signature shall appear on
18 the Bonds shall cease to be such officer before the delivery of any Bond, such
19 signature or such facsimile shall nevertheless be valid and sufficient for all purposes,
20 the same as if such officer had remained in office.
21

22 Section 4.05 Authentication.

23
24 Only such Bonds issued after the date of enactment of this Bond Ordinance as shall have
25 endorsed thereon a certificate of authentication duly executed by the Trustee or the Registrar
26 shall be entitled to any right or benefit under this Bond Ordinance. No Bond shall be valid or
27 obligatory for any purpose unless and until such certificate of authentication shall have been
28 duly executed by the Trustee or Registrar, and such executed certificate of the Trustee or
29 Registrar upon any such Bond shall be conclusive evidence that such Bond has been
30 authenticated and delivered under this Bond Ordinance. The Trustee's certificate of
31 authentication on any Bond shall be deemed to have been duly executed if signed by any
32 authorized signatory of the Trustee or by any authorized officer of the Registrar.
33

34 Section 4.06 Medium of Payment.

35
36 The Bonds shall be payable with respect to principal, interest, and premium, if any, in
37 lawful money of the United States of America, unless otherwise provided in a Series Ordinance.
38

39 Section 4.07 Mutilated, Lost, Stolen or Destroyed Bonds.

40
41 In the event any Bond is mutilated, lost, stolen or destroyed, the City may execute and
42 the Trustee may authenticate a new Bond of the same Series of like date, maturity and
43 denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any
44 mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case
45 of any lost, stolen or destroyed Bond, there shall be first furnished to the City and to the Trustee
46 evidence of or affidavit as to such loss, theft or destruction satisfactory to the City and the
47 Trustee together with indemnity satisfactory to them. In the event any such Bond shall have
48 matured, instead of issuing a duplicate Bond, the City shall pay the same. The City and the
49 Trustee may charge the Holder or owner of such Bond with their reasonable fees and expenses
50 (including reasonable attorney's fees, costs and expenses) in connection with such actions.

1
2 Section 4.08 Transfer and Registry; Persons Treated as Owners.
3

4 (A) As long as any Bonds shall be Outstanding, the City shall cause books for
5 the registration and for the transfer of Bonds to be kept. Such books shall be kept
6 by the Trustee unless there shall have been appointed a Registrar other than the
7 Trustee to keep the books of registration for any particular Series of Bonds, in which
8 case such Registrar shall promptly notify the Trustee in writing of any registration
9 or transfer of the Bonds. The transfer of each Bond may be registered only upon the
10 registration books of the City kept for that purpose by the registered owner thereof
11 in person or by his duly authorized attorney upon surrender thereof and an
12 assignment with a written instrument of transfer satisfactory to the Trustee or the
13 Registrar, as the case may be, duly executed by the registered owner or his duly
14 authorized attorney. Upon the registration or transfer of any Bond, the City shall
15 cause to be issued, subject to the provisions of Section 4.11 hereof, in the name of
16 the transferee a new Bond or Bonds of the same aggregate principal amount,
17 maturity and interest rate as the surrendered Bond.
18

19 (B) The City, the Trustee, and any Registrar may deem and treat the person
20 in whose name any Bond shall be registered upon the registration books of the City
21 as the absolute owner of such Bond, whether such Bond shall be overdue or not, for
22 the purpose of receiving payment of, or on account of, the principal of, premium (if
23 any) and interest on such Bond and for all other purposes, and all such payments so
24 made to any such registered owner or, upon his order, shall be valid and effectual
25 to satisfy and discharge the liability upon such Bond to the extent of the sum or sums
26 so paid; and none of the City, the Trustee and any Registrar shall be affected by any
27 notice to the contrary.
28

29 (C) Notwithstanding anything in paragraphs (A) and (B) of this Section 4.08
30 to the contrary, Bonds may be issued in the form of contractual obligations which
31 are not instruments and which may be transferred as provided in such contracts.
32

33 Section 4.09 Date and Payment Provisions.
34

35 Unless otherwise provided in any Existing Ordinance or Series Ordinance with respect to
36 Bonds issued thereunder, each Bond of a Series shall be authenticated on such dates as it shall,
37 in each case, be delivered. Each Bond shall bear interest from the Date of Issue if no interest
38 has yet been paid; otherwise from the last date to which interest has been paid and which date
39 is on or prior to the date of such Bond's authentication.
40

41 Holders of at least \$1,000,000 principal amount of a Series of Bonds may, by written
42 notice containing wiring instructions filed with the Trustee at least 20 days prior to any Bond
43 Payment Date, provide for the payment of the interest on such Bonds by wire transfer to an
44 account at a bank located in the continental United States.
45
46

1 Section 4.10 Transferability of Bonds.

2
3 Bonds of a Series, upon surrender thereof at the office of the Trustee or the Registrar,
4 as the case may be, for the Bonds of such Series with a written instrument of transfer
5 satisfactory to the Trustee or the Registrar, duly executed by the Holder or his duly authorized
6 attorney, may, at the option of the Holder and upon payment by such Holder of any charges
7 made pursuant to Section 4.11 hereof, be exchanged for an equal aggregate principal amount
8 of Bonds of such Series of like maturity and interest rate of any other authorized denominations;
9 provided that Bonds issued in the form of contractual obligations may be transferred as provided
10 in such contracts.

11
12 Section 4.11 Regulations With Respect to Exchanges and Transfer.

13
14 In all cases in which the privilege of exchanging or transferring Bonds is exercised, the
15 City shall execute and the Trustee or the Registrar, as the case may be, shall authenticate and
16 deliver Bonds in accordance with the provisions of this Bond Ordinance. All Bonds surrendered
17 in any such exchanges or transfers shall forthwith be cancelled and destroyed and shall not be
18 reissued, and a counterpart of the certificate of destruction evidencing such destruction shall
19 be furnished by the Trustee or the Registrar, as the case may be, to the City. All Bonds so
20 destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond
21 Ordinance. There shall be no charge to the Holder for such exchange or transfer of Bonds except
22 that the Trustee or the Registrar, as the case may be, may make a charge sufficient to
23 reimburse it for any tax or other governmental charge required to be paid with respect to such
24 exchange or transfer. Neither the City nor the Trustee or the Registrar, as the case may be,
25 shall be required to register, transfer or exchange Bonds of a Series during the period between
26 a Record Date and its related Bond Payment Date, or to register, transfer or exchange any
27 Bonds called for redemption after the mailing of any notice of redemption of such Bond.

28
29 Section 4.12 Cancellation and Destruction of Mutilated, Paid or Surrendered Bonds.

30
31 Upon the surrender of mutilated Bonds pursuant to Section 4.07 hereof, or Bonds paid
32 or surrendered, the same shall be cancelled and destroyed and shall not be reissued, and a
33 counterpart of the certificate evidencing such destruction shall be furnished by the Trustee or
34 the Registrar, as the case may be, to the City. All Bonds so destroyed shall thereafter no longer
35 be considered Outstanding for any purposes of this Bond Ordinance.

36
37 Section 4.13 Notice of Redemption.

38
39 The provisions of this Section 4.13 are, with respect to the Existing Notes, subject to
40 the applicable provisions of the Existing Ordinances and Existing Loan Agreements.

41
42 If any of the Bonds, or portions thereof, are called for redemption, the Trustee, shall
43 give written notice to the Holders of any Bonds to be redeemed, in the name of the City, of the
44 redemption of such Bonds, or portions thereof. Notice of each redemption of Bonds is required
45 to be mailed by the Trustee by first class mail, postage prepaid, at least 20 but no more than
46 60 days prior to the redemption date to each registered owner of Bonds to be redeemed, at the
47 address of such owner recorded on the bond register and to be otherwise given in accordance
48 with, among others, the following requirements:

1 (1) notices must contain, at a minimum, the complete official name of the
2 Bonds, CUSIP numbers (if any), Bond numbers, principal amount of each Bond to be
3 redeemed (if less than all), publication date, redemption date, Redemption Price,
4 redemption agent's name and address and phone number, Trustee's name and address,
5 date of the Bonds, interest rate, maturity date, the place or places where amounts due
6 will be payable, and any other descriptive information deemed necessary by the
7 Trustee;

8
9 (2) notices must be sent to Bondholders of \$1,000,000 or more, to the
10 Municipal Securities Rulemaking Board, if necessary (via its Electronic Municipal Market
11 Access (EMMA) system, or its successor, as may be amended or modified), and any
12 Securities Depository (if such Bonds are registered in the name of a Securities Depository
13 or the nominee of such Securities Depository) by such method or such other method as
14 is standard in the industry; in addition, any Bondholder holding in excess of \$1,000,000
15 principal amount of Bonds may request the Trustee to send notices to any additional
16 addressee specified;

17
18 (3) a second notice to registered owners of the Bonds must be mailed by the
19 means specified above to any registered owner of Bonds who has not presented Bonds
20 for redemption 60 days after the redemption date;

21
22 (4) notice of redemptions effected by advance refundings must also be given
23 notice in accordance with the above requirements at least 20 days but no more than 60
24 days prior to the actual redemption date; and

25
26 (5) CUSIP number identification, if any, with appropriate dollar amounts for
27 each CUSIP number must accompany all redemption payments and interest payments,
28 whether by check or by wire transfer.

29
30 The obligation to provide notice shall not be conditioned upon the prior payment to the
31 Paying Agent of money or the delivery to the Paying Agent of Authorized Investments or
32 Government Obligations sufficient to pay the Redemption Price of the Bonds to which such
33 notice relates or the interest thereon to the redemption date.

34 If at the time of mailing of a notice of redemption, there shall not have been deposited
35 with the Trustee or Paying Agent moneys sufficient to redeem all the Bonds or portions thereof
36 called for redemption, which moneys are or will be available for redemption of such Bonds,
37 such notice is required to state that it is conditional on the deposit of the redemption moneys
38 with the Trustee or Paying Agent not later than the opening of business on the redemption
39 date, and such notice shall be of no effect unless such moneys are so deposited.

40 The failure of the Trustee to give notice to a Bondholder or any defect in such notice
41 shall not affect the validity of the redemption of any other Bonds for which notice is properly
42 given. Any Bondholder may waive notice of redemption by delivery of a written waiver to the
43 Trustee, or delivery of the Bond for payment on the redemption date.

44
45 Any Series Ordinance providing for the issuance of Bonds consisting of contractual
46 obligations not in the form of an instrument or not registered in the name of a Securities
47 Depository or the nominee of such Securities Depository or providing for Bonds in bearer form
48 may provide alternative methods for delivery of notice of redemption, and the Trustee shall be

1 entitled to conclusively rely on such Series Ordinance as being consistent with the provisions of
2 this Bond Ordinance.

3
4 Provided sufficient funds for such redemption are on deposit with the Trustee, all Bonds
5 so called for redemption shall cease to bear interest on the specified redemption date and shall
6 no longer be deemed to be Outstanding hereunder. If said money shall not be so available on
7 the redemption date, such Bonds or portions thereof shall continue to bear interest until paid
8 at the same rate as they would have borne had they not been called for redemption.

9
10 Section 4.14 Cancellation of Bonds Which Have Been Redeemed.

11
12 All Bonds which have been redeemed shall be cancelled and destroyed by the Trustee
13 and shall not be reissued, and a counterpart of the certificate of destruction evidencing such
14 destruction shall be furnished by the Trustee to the City. All Bonds so destroyed shall thereafter
15 no longer be considered Outstanding for any purposes of this Bond Ordinance.

16
17 Section 4.15 Restriction on Optional Redemption.

18
19 Notwithstanding anything in this Bond Ordinance to the contrary, no optional
20 redemption of Bonds may occur unless all amounts payable by the City owing under a
21 reimbursement agreement with any provider of a surety bond, line of credit, insurance policy
22 or letter of credit as contemplated under Section 7.04(D) hereof shall have been paid in full.

23
24 Section 4.16 Selection of Bonds to be Redeemed.

25
26 In the event that less than all of the Bonds of any Series are to be redeemed at the
27 option of the City, Bonds to be redeemed shall be in such order of maturity as selected by the
28 City. In the event of redemption of less than all of the Bonds of a Series of any maturity, the
29 Bonds or portions of Bonds to be redeemed, shall be selected by lot by the Trustee. The portion
30 of any Bond of a denomination which is larger than the minimum denomination for the Bonds
31 of such Series shall be in the principal amount of such minimum denomination or a multiple
32 thereof, and that, in selecting portions of such Bonds for redemption, the Trustee shall treat
33 each such Bond as representing that number of Bonds of minimum denomination which is
34 obtained by dividing the principal amount of such Bond to be redeemed in part by the amount
35 of the minimum denomination; provided further that, if less than all of the beneficial interests
36 in a Bond of a single maturity registered in the name of a Securities Depository or a Securities
37 Depository Nominee are to be redeemed, the beneficial interests to be redeemed shall be
38 selected by lot or in such manner as may be directed by the Securities Depository. If there shall
39 be drawn for redemption less than all of a Bond, the City shall execute and the Trustee shall
40 authenticate and deliver, upon the surrender of such Bond, without charge to the owner
41 thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds
42 of the same Series in any authorized denomination. The procedures for selection of Bonds of a
43 Series for redemption set forth in this Section 4.16 are subject, however, to any alternative
44 provisions set forth in a Series Ordinance applicable to such Series of Bonds.

45
46 Section 4.17 Purchase of Bonds.

47
48 The Trustee shall, if and to the extent practicable, purchase Bonds at the written
49 direction of the City at such time, in such manner and at such price as may be specified by the
50 City. The Trustee may so purchase Bonds with any money then held by the Trustee which is

1 available for the redemption or purchase of Bonds and in excess of that set aside for the
2 payment of Bonds called for redemption; provided, that the Trustee is provided with an opinion
3 of Bond Counsel to the effect that such redemption or purchase complies with any limitations
4 or restrictions on such redemption or purchase contained in this Bond Ordinance.

5
6 Section 4.18 Bonds Issued as Taxable Obligations.
7

8 Notwithstanding anything in this Bond Ordinance to the contrary, the City may from
9 time to time, pursuant to one or more Series Ordinances, provide for the issuance of Bonds the
10 interest on which may be includable in gross income of the Holders of such Bonds for federal
11 income taxation purposes.

12
13 Section 4.19 Security for Payment of Bonds; Priority of Lien.
14

15 Subject to the following priority provisions of this Section 4.19, the Bonds, together with
16 the interest thereon, shall be payable solely from and secured equally and ratably by a pledge
17 of the Revenues. The principal of the Bonds, together with the interest and redemption
18 premium, if any, thereon shall be payable from and secured, subject to the foregoing, by a
19 pledge of the funds deposited, from time to time, in the funds and accounts created
20 hereunder, including the Debt Service Fund; provided, however, that amounts on deposit in
21 each Debt Service Fund Account, and any subaccount therein, and in each Debt Service Reserve
22 Fund shall be held solely for the benefit of the Series of Bonds for which such accounts,
23 subaccounts, or funds were established. Nothing in this Bond Ordinance shall prohibit the City
24 from making a pledge of and lien on the Revenues which is subordinate and inferior to the
25 pledge and lien made by this Bond Ordinance to secure bonds, notes or other evidences of
26 indebtedness hereafter issued by the City.

27
28 Pursuant to the provisions of Section 6-21-330 of the Act and as additional security for
29 the payment of Bonds, a statutory lien on the System is granted. Such lien shall extend to the
30 entirety of the System as currently constituted and as expanded from time to time unless
31 otherwise provided in the Series Ordinance authorizing a Series of Bonds for a specific
32 improvement to or expansion of the System. Any holder of any of such Bonds may, either at law
33 or in equity, by suit, action, mandamus or other proceedings, protect and enforce such
34 statutory lien and may, by suit, action, mandamus or other proceedings, enforce and compel
35 performance of all duties of the officials of the City, including the fixing of sufficient rates, the
36 collection of Revenues, the proper segregation of the Revenues and the proper application
37 thereof. But such statutory lien shall not be construed to give any such Bondholder authority to
38 compel the sale of the System or any part thereof.

39
40 Section 4.20 Limited Obligation.
41

42 The Bonds shall (a) be payable solely from the Revenues, (b) not be secured by, or in
43 any way entitled to, a pledge of the full faith, credit, or taxing power of the City, (c) not be
44 an indebtedness of the City within the meaning of any state constitutional provision or statutory
45 limitation but are payable solely from a revenue-producing project or special source which
46 source does not involve revenues from any tax or license, and (d) not be a pecuniary liability
47 of the City's or a charge against the City's general credit or taxing power. Except as provided
48 in the Existing Ordinances or this Bond Ordinance, the City is not obligated to pay any of the
49 Bonds or the interest thereon except from the Revenues.
50

1 Section 4.21 Bonds in Book-Entry Form.

2
3 Notwithstanding any other provision of this Bond Ordinance with respect to the form of
4 Bonds to the contrary, a Series Ordinance may provide for the issuance of one or more Series
5 of Bonds solely in fully registered form registerable to a Securities Depository, a Securities
6 Depository Nominee or the beneficial owner of the Bonds. The Series Ordinance may further
7 provide that such Series of Bonds shall be evidenced by one or more certificates or by a system
8 of book entries in a form satisfactory to the Chief Financial Officer and to provide for payment,
9 redemption, notices and like provisions in a manner consistent with such system of registration.

10
11 Section 4.22 Waiver of Certain Provisions.

12
13 Notwithstanding anything in this Bond Ordinance to the contrary, whenever all of the
14 debt issued or all of the obligations incurred by the City under a Series Ordinance are acquired
15 by and are held by a single entity, that single entity, at its sole option, may waive in writing
16 (provided to the City and the Trustee) any provision or requirement of this Bond Ordinance that
17 relates separately to the governance of such Series and is for the protection and benefit of such
18 single entity only and not for the protection or benefit of any other Holder or Holders of Bonds;
19 provided that if such Series of Bonds is insured by an Insurer, then any such waiver shall require
20 the prior written approval of such Insurer.

21
22 Section 4.23 Bonds Not in the Form of an Instrument.

23
24 In the event that the City issues any Series of Bonds which are contractual obligations
25 not in the form of an instrument, the provisions regarding redemption or prepayment of such
26 Bonds, notices to Bondholders and transfers of such Bonds contained herein may be altered or
27 supplemented by the provisions of the Series Ordinance pursuant to which such Bonds are issued
28 or the contract pursuant to which such obligations are created.

29
30 **ARTICLE V**

31
32 **RATES AND CHARGES**

33
34 Section 5.01 Rate Covenant.

35
36 A. It is hereby determined that the rates for services and facilities furnished by the
37 System shall, until otherwise revised, be as now established. Said rates and charges are
38 determined to be sufficient to meet the requirements of this Bond Ordinance but they shall be
39 revised by the City Council whenever necessary in order that they shall at all times be
40 maintained on a basis sufficient to meet the requirements of this Bond Ordinance. The City
41 specifically covenants and agrees to maintain rates and charges at levels sufficient for
42 Revenues:

43
44 (1) To provide for the punctual payment of the Principal Installments of and
45 interest on all Bonds that may from time to time hereafter be Outstanding, and to that
46 end, to maintain the Debt Service Fund and the Debt Service Fund Accounts in the
47 manner provided herein and thus provide for the punctual payment of the principal of
48 and interest on the Bonds;

1 (2) To maintain the Debt Service Reserve Funds in the manner prescribed
2 herein, in the Existing Ordinances, and in any applicable Series Ordinance;
3

4 (3) To pay all amounts owing under a reimbursement agreement with any
5 provider of a surety bond, insurance policy or letter of credit as contemplated under
6 Section 7.04(D) hereof;
7

8 (4) To provide for the punctual payment of the principal of and interest on
9 all Junior Lien Bonds that may from time to time hereafter be outstanding;
10

11 (5) To provide for the payment of the Operation and Maintenance Expenses;
12 and
13

14 (6) To discharge all obligations imposed by the Act and by this Bond
15 Ordinance and any applicable Series Ordinance.
16

17 B. The City covenants and agrees that it will, at all times, prescribe and maintain
18 and thereafter collect rates and charges for the services and facilities furnished by the System
19 which, together with other income, are reasonably expected to yield annual Revenues in the
20 current Fiscal Year equal to at least the sum of 110% of the Annual Principal and Interest
21 Requirement in such Fiscal Year for all Bonds Outstanding. Promptly upon any material change
22 in the circumstances which were contemplated at the time such rates and charges were most
23 recently reviewed, but not less frequently than once in each Fiscal Year, the City, with or
24 without the aid of an Independent Consultant, shall review the rates and charges for its services
25 and shall promptly revise such rates and charges as necessary to comply with the foregoing
26 requirement.
27

28 C. To the extent moneys from any legally available sources which are not otherwise
29 considered Revenues are appropriated by the City Council for such purpose, or are otherwise
30 made available by the City by one or more duly enacted ordinances, such amounts shall be
31 timely transferred to the Non-System Account.
32

33 ARTICLE VI

34 JUNIOR LIEN BONDS

35 Section 6.01 Right to Issue Junior Lien Bonds; Accession Thereof to Status of Bonds.

36
37
38
39 (A) Notwithstanding that Bonds may be Outstanding, the City may at any time, and
40 without limitation and free of all conditions issue Junior Lien Bonds, in such amount as it may
41 from time to time determine, payable from the revenues of the System, provided that the
42 pledge of revenues of the System granted for the protection of said Junior Lien Bonds, shall at
43 all times be and remain subordinate and inferior in all respects to the pledges of revenues made
44 or authorized for the Bonds; and provided, further, that the maturity of Junior Lien Bonds may
45 not be accelerated and paid in full unless all of the Bonds shall have been paid or provision
46 therefor has been made pursuant to Article XVI hereof.
47

48 (B) By proceedings authorizing the issuance of Junior Lien Bonds, the City may
49 provide for the accession of such Junior Lien Bonds to the status of Bonds provided all of the
50 following conditions are met. Any such subsequent proceedings adopted by the City Council

1 providing for such accession shall make the findings provided in subparagraphs (l) through (4)
2 and state whether and to what extent a Debt Service Reserve Fund shall be established as set
3 forth in subparagraph (5).
4

5 (1) The Junior Lien Bonds were issued for a purpose or purposes set forth in
6 Section 4.01(A) hereof.
7

8 (2) There shall exist on the date of accession (a) no default in the payment
9 of the principal of or interest on any Outstanding Bonds or any outstanding Junior Lien
10 Bonds, (b) no default in the performance of any duties required under the provisions of
11 this Bond Ordinance, and (c) no amount owed by the City with respect to the full funding
12 of a Debt Service Reserve Fund, either by way of cash or reimbursement of any other
13 funding mechanism, except in accordance with Section 4.02(5)(a) hereof.
14

15 (3) There shall be deposited in the Debt Service Fund Account for such Series
16 of newly-acceded Bonds the amounts which would have been required under the
17 provisions of Section 8.02 hereof to be accumulated therein on the date of accession if
18 said Junior Lien Bonds had originally been issued as Bonds.
19

20 (4) On the date of accession, the earnings tests prescribed by Section 4.02(6)
21 hereof shall have been met.
22

23 (5) In the event such proceedings require a Reserve Requirement to be
24 maintained for such Series of newly-acceded Bonds, then in such event, there shall be
25 on deposit on the date of accession in a Debt Service Reserve Fund an amount equal to
26 the Reserve Requirement established for such Junior Lien Bonds which are being
27 acceded to the status of Bonds.
28

29 (6) The City shall obtain an opinion of Bond Counsel to the effect that: (a)
30 this Bond Ordinance and the proceedings authorizing such Junior Lien Bonds have been
31 duly adopted and are in full force and effect; (b) the Junior Lien Bonds have been duly
32 and lawfully authorized and executed by the City and are valid and binding upon, and
33 enforceable against, the City (except to the extent that the enforceability thereof may
34 be limited by the operation of bankruptcy, insolvency and similar laws affecting rights
35 and remedies of creditors); and (c) this Bond Ordinance creates the valid pledge which
36 it purports to create of the revenues and of moneys and securities on deposit in any of
37 the funds established hereunder subject to the application thereof to the purposes and
38 on the conditions permitted by this Bond Ordinance.
39

40 (7) In the event such Junior Lien Bonds were issued with variable rates, the
41 provisions of Section 4.02(8) shall have been met.
42

43 Section 6.02 Lease Financing Agreements. 44

45 The City shall have at all times the right to enter into leases or other financing
46 agreements secured by a lien on the property, plant and equipment comprising a part of the
47 System, but which are not secured by a lien on or by their terms payable from Revenues,
48 provided that to the extent any such lease or financing agreement is secured by a lien on the
49 property, plant and equipment comprising part of the System, the System's property subject

1 to the lien is limited to the property, plant or equipment acquired or improved by such lease
2 or other financing arrangement.

3 4 ARTICLE VII

5 6 ESTABLISHMENT OF FUNDS

7 8 Section 7.01 Requirement for Special Funds. 9

10 For so long a time as any sum remains due and payable by way of principal or interest
11 on Bonds, the funds or accounts relating to the System provided for in this Bond Ordinance shall
12 be established and maintained, and deposits shall be made therein in the manner herein
13 required. The funds provided for herein (a) shall be funded, and disbursements therefrom shall
14 be made, at the times and in the amounts, and amounts therein may be invested, all as is
15 provided herein and in the Existing Ordinances, and (b) shall remain in existence for so long a
16 time as any sum remains due and payable by way of principal of and interest on the Bonds. Any
17 Revenues and other moneys remaining after application as provided herein may be applied by
18 the City, from time to time, for such lawful purposes as it may determine to be in the best
19 interest of the System. The establishment and continuation of the Gross Revenue Fund, the
20 Operation and Maintenance Fund, the Depreciation Fund and the Contingent Fund in and by the
21 Existing Ordinances and this Bond Ordinance shall not be construed to require the establishment
22 of any completely independent, self-balancing funds as such term is commonly defined and
23 used in governmental accounting, but rather is intended solely to constitute an earmarking of
24 the amounts to be credited or deposited therein for certain purposes and to establish certain
25 priorities for application of such amounts as provided herein and in the Existing Loan
26 Agreements. The cash required to be accounted for in each of the foregoing funds may be
27 deposited in a single bank account, provided that adequate accounting records are maintained
28 to reflect and control the restricted allocation of the cash in and deposited therein for the
29 various purposes of such funds as provided in the Existing Ordinances, this Bond Ordinance and
30 the Existing Loan Agreements.

31 32 Section 7.02 The Gross Revenue Fund. 33

34 (A) There has been established pursuant to the Existing Ordinances and is
35 hereby continued a special revenue fund of the City designated as the "Gross
36 Revenue Fund," and within the Gross Revenue Fund special accounts designated as
37 the "System Account" and "Non-System Account," to be held and administered by
38 the City.

39
40 (B) Money in the Gross Revenue Fund shall be withdrawn and made use of
41 only in the manner and in the order of priority specified in Article VIII hereof.
42

43 Section 7.03 The Debt Service Fund. 44

45 (A) There has been established pursuant to the Existing Ordinances and is
46 hereby continued a Debt Service Fund held by the Trustee. Within the Debt Service
47 Fund, there has been or will be established a Debt Service Fund Account for each
48 Series of Bonds Outstanding. Each Debt Service Fund Account is intended to provide
49 for the ratable payment of the principal of, redemption premium, if any, and
50 interest on the respective Series of Bonds as the same respectively fall due.

1 Payments into the Debt Service Fund shall be made in the manner prescribed by this
2 Bond Ordinance, including the applicable provisions of Article VIII hereof, and,
3 except as herein provided, all money in the respective Debt Service Fund Accounts
4 shall be used solely to pay the principal of, redemption premium, if any, and interest
5 on the respective Series of Bonds, and for no other purpose. Each Debt Service Fund
6 Account shall bear a numeric or alphanumeric Series designation as may be necessary
7 to distinguish each Debt Service Fund Account from all others.
8

9 (B) Except as otherwise provided in the Existing Ordinances, the Debt Service
10 Fund and each Debt Service Fund Account therein shall be kept in the complete
11 custody and control of the Trustee and withdrawals from each Debt Service Fund
12 Account shall be made only by such Trustee or other holder who shall transmit to
13 each Bondholder, at such times as may be appropriate, the sums required to pay the
14 principal of, redemption premium, if any, and interest on the respective Series of
15 Bonds. Amounts held by the Trustee due to non-presentment of Bonds on any
16 redemption date must be retained by the Trustee or other holders for a period of at
17 least one year after the final maturity of such Bonds. After such one-year period,
18 funds retained in the Debt Service Fund Account shall be remitted to the Office of
19 the State Treasurer as unclaimed property. Further, subject to the written consent
20 of the City, payment on a Series of Bonds may be made without presentation and
21 surrender of the physical Bond; in such event, the Trustee or other holders assume
22 no liability to any person and no obligation shall be imposed on the Trustee or other
23 holders to seek the return of such Series of Bonds from the Holder thereof.
24

25 (C) Moneys in the Debt Service Fund shall be invested and reinvested by the
26 Trustee at the written direction of an Authorized Officer or his designee in
27 Authorized Investments, maturing not later than the date on which such money is
28 required to pay the principal of, premium, if any, and interest on the next occurring
29 maturity of the Bonds. The Trustee shall have no responsibility for the investment
30 of money in the Debt Service Fund that is not held by the Trustee. Unless otherwise
31 provided in an Existing Ordinance or a Series Ordinance, all earnings from such
32 investments shall be added to and become a part of the Debt Service Fund Account
33 in which such investments are held, but shall be credited against payments that
34 would otherwise be made to such Debt Service Fund Account pursuant to the
35 provisions of Section 8.02 hereof.
36

37 (D) All monies received by the Trustee as Interest Payment Subsidies with
38 respect to a Series of Bonds shall be deposited in the Debt Service Fund Account for
39 such Series of Bonds and used to pay Debt Service on such Series of Bonds.
40

41 (E) There may be established in the applicable Debt Service Fund Accounts
42 from time to time a capitalized interest account to provide for the payment of
43 interest on the Bonds of a particular Series. Any such account shall be created by
44 the Series Ordinance relating to the issuance of such Series of Bonds. Any earnings
45 from the investment of funds in the capitalized interest account not required to pay
46 interest on the Bonds of any Series during the period for which interest on the Bonds
47 of such Series is capitalized shall be deposited in the Project Fund created by the
48 Series Ordinance relating to such Bonds or, if such Project Fund has been terminated
49 or no such fund was created, such earnings shall be retained in the appropriate Debt
50 Service Fund Account.

1
2 Section 7.04 The Debt Service Reserve Funds.
3

4 (A) Each Existing Ordinance has created, and each Series Ordinance may
5 create, a Debt Service Reserve Fund for the Series of Bonds authorized thereby. Any
6 such Debt Service Reserve Fund shall be for the equal and ratable benefit only of
7 Bonds of that Series. Each such Debt Service Reserve Fund is intended to insure the
8 timely payment of the principal of, and premium, if any, and interest on, that Series
9 of Bonds, and to provide for the redemption of such Bonds prior to their stated
10 maturities. Any Debt Service Reserve Fund shall be maintained in an amount equal
11 to the Reserve Requirement for such Series of Bonds. Unless otherwise provided in
12 the applicable Existing Ordinance or a Series Ordinance, money in a Debt Service
13 Reserve Fund shall be used for the following purposes, and for no other:
14

15 (1) To prevent a default in the payment of the principal of or interest on the
16 applicable Series of Bonds, by reason of the fact that money in its Debt Service Fund
17 Account is insufficient for such purposes;
18

19 (2) To pay the Redemption Price of the Bonds of that Series in the event that
20 all Outstanding Bonds of such Series be redeemed as a whole; or
21

22 (3) To effect partial redemption of the applicable Series of Bonds; but
23 subject to the restrictions of Section 4.15 hereof and provided that subsequent to said
24 partial redemption, the market value of the cash and securities in the Debt Service
25 Reserve Fund shall be not less than the Reserve Requirement therefor.
26

27 Notwithstanding the provisions of Section 7.04(A)(1-3) above and as permitted by the
28 Code and Section 4.22 hereof, if a Debt Service Reserve Fund is funded with cash generated by
29 the System or other moneys of the City, then, upon the written consent of the Holders of all
30 Bonds of such Series secured by such Debt Service Reserve Fund, the monies in such Debt Service
31 Reserve Fund may be returned to the City prior to the final maturity of such Series. The
32 requirements for and provisions governing any Debt Service Reserve Fund in the remainder of
33 this Bond Ordinance shall, in references to “the Debt Service Reserve Fund,” “the Reserve
34 Requirement” and “the Bonds,” be deemed to refer to each such Debt Service Reserve Fund
35 created by an Existing Ordinance or a Series Ordinance, if any, and in each case to the
36 respective Reserve Requirement for the respective Series of Bonds, and to Bonds only of that
37 respective Series and not to any other Bonds.
38

39 (B) (1) Except as provided in (B)(2) below, each Debt Service Reserve Fund shall be kept
40 in the complete custody and control of the Trustee and withdrawals therefrom shall be
41 made only by the Trustee who shall transmit to the Bondholders, at such times as may
42 be appropriate, the sums required to pay the principal of, redemption premium, if any,
43 and interest on the Bonds.
44

45 (2) If a Series of Bonds is held by the Water Quality Authority, then the Debt
46 Service Reserve Fund for such Series of Bonds may be kept in the custody and control of
47 the Office of State Treasurer and invested in Authorized Investments. Withdrawals
48 therefrom shall be made only as directed by the Water Quality Authority at such times
49 as may be required to pay the principal and interest on such Series of Bonds. Any

1 withdrawal of the monies in a Debt Service Reserve Fund that exceeds the Reserve
2 Requirement shall be in accordance with the provisions of the Existing Loan Agreements.
3

4 (C) Except as provided in Section 7.04(B)(2) herein, money in a Debt Service Reserve
5 Fund shall be invested and reinvested by the Trustee at the written direction of an Authorized
6 Officer or his designee in Authorized Investments. Subject to the remaining provisions of this
7 paragraph (C), the earnings from such investments shall be added to and become a part of that
8 Debt Service Reserve Fund. Except as provided in a Series Ordinance, if as of any date of
9 calculation, the value of the securities and money in a Debt Service Reserve Fund shall exceed
10 its Reserve Requirement, such excess shall, at the written direction of the City, either be used
11 to effect partial redemption of Bonds of that Series, or shall be removed from such Debt Service
12 Reserve Fund and, either (i) transferred into the applicable Debt Service Fund Account, (ii)
13 transferred to the System Account of the Gross Revenue Fund, as permitted by the provisions
14 of the Code, or (iii) if so provided in a Series Ordinance, transferred to the Project Fund.
15

16 (D) In the event a Series Ordinance requires a Debt Service Reserve Fund to be
17 established for a Series of Bonds, unless otherwise required by such Series Ordinance, the City,
18 in lieu of the deposit of moneys into a Debt Service Reserve Fund, may alternatively satisfy the
19 applicable Reserve Requirement by causing to be so credited to such Debt Service Reserve Fund
20 an irrevocable and unconditional surety bond, line of credit, letter of credit or insurance policy
21 equal to the Reserve Requirement therefor.
22

23 (E) In the event the amount credited to a Debt Service Reserve Fund under a surety
24 bond, letter of credit, or insurance policy (the "**Original Funding Instrument**") also includes
25 amounts available under another surety bond, letter of credit, or insurance policy (the
26 "**Additional Funding Instrument**"), draws on the Original Funding Instrument and the
27 Additional Funding Instrument shall be made on a pro rata basis to fund any insufficiency in the
28 Debt Service Fund Account. In the event a Debt Service Reserve Fund is funded with both monies
29 and a surety bond, letter of credit, or insurance policy (1) any withdrawals from such Debt
30 Service Reserve Fund shall be made first from such monies (or the liquidation of investments
31 made therewith) and second from such surety bond, line of credit, letter of credit, or insurance
32 policy, and (2) cash deposits to such Debt Service Reserve Fund shall be used first to restore
33 the cash balance and second to reinstate the surety bond, line of credit, letter of credit, or
34 insurance policy. The surety bond, line of credit, letter of credit, or insurance policy shall be
35 payable (upon the giving of notice as required thereunder) on any Bond Payment Date on which
36 moneys will be required to be withdrawn from such Debt Service Reserve Fund and applied to
37 the payment of the principal of or interest on the Outstanding Series of Bonds to which such
38 surety bond, line of credit, letter of credit, or insurance policy relates when such payments
39 cannot be made by amounts otherwise credited to such Debt Service Reserve Fund.
40

41 Section 7.05 The Operation and Maintenance Fund. 42

43 (A) There has been established pursuant to the Existing Ordinances and is
44 hereby continued an Operation and Maintenance Fund held and administered by the
45 City. The Operation and Maintenance Fund is intended to provide for the payment
46 of the Operation and Maintenance Expenses.
47

48 (B) Withdrawals from the Operation and Maintenance Fund shall be made by
49 or on the order of an Authorized Officer in accordance, as nearly as may be
50 practicable, with the Annual Budget then in effect.

1
2 Section 7.06 The Depreciation Fund.
3

4 (A) There has been established pursuant to the Existing Ordinances and is hereby
5 continued a Depreciation Fund held and administered by the City. This fund shall be maintained
6 in an amount to be established not less frequently than annually by the City Council in order to
7 provide a reasonable reserve for depreciation of the System.
8

9 (B) Money in this fund shall be used solely:

- 10 (1) For the purpose of restoring depreciated or obsolete items of the System;
11
12 (2) To prevent defaults of Bonds and Junior Lien Bonds; and
13
14 (3) For optional redemption of Bonds or Junior Lien Bonds.
15
16

17 (C) Withdrawals from this fund shall be made by or on order of the City.
18

19 Section 7.07 The Contingent Fund.
20

21 (A) There has been established pursuant to the Existing Ordinances and is hereby
22 continued a Contingent Fund held and administered by the City. This fund shall be maintained
23 in an amount to be established not less frequently than annually by the City Council in order to
24 provide a reasonable reserve for contingencies and for improvements, betterments and
25 extensions of the System.
26

27 (B) Money in this fund shall be used solely:

- 28 (1) For improvements, betterments and extensions to the System, other than
29 for those things which are reasonably necessary to maintain the System
30 in good repair and working order;
31
32 (2) To defray the cost of unforeseen contingencies and extraordinary repairs
33 to the System;
34
35 (3) To prevent defaults of Bonds and Junior Lien Bonds; and
36
37 (4) For optional redemption of Bonds or Junior Lien Bonds.
38
39

40 (C) Withdrawals from this fund shall be made by or on order of an Authorized Officer.
41

42 Section 7.08 Establishment of Project Funds.
43

44 With respect to each Series of Bonds issued for the purposes set forth at Section
45 4.01(A)(1) hereof, there shall be established and held a Project Fund pursuant to the respective
46 Series Ordinance. The moneys in the respective Project Fund shall be used to defray the costs
47 of and to pay any costs incurred or to be incurred with respect to the project so financed and
48 costs of issuance incurred in connection therewith. The City may, but shall not be required to
49 establish a capitalized interest account and a cost of issuance account in any Project Fund so
50 created. On the occasion of the delivery of any such Series of Bonds, the proceeds therefrom

shall be paid into the Project Fund established for such Series as set forth in the Series Ordinance authorizing their issue. Withdrawals from a Project Fund and the accounts, if any, therein shall not be made except as provided in the Series Ordinance establishing such Project Fund.

Section 7.09 Investments of Funds.

Moneys on deposit from time to time in the Gross Revenue Fund, the Depreciation Fund, the Contingent Fund or any Project Fund may be invested at the discretion of the City in Authorized Investments. Earnings resulting from the investment of money in a particular fund shall be deposited into the System Account of the Gross Revenue Fund (i) except as otherwise provided in Sections 7.03 and 7.04 hereof and, with respect to moneys in a Project Fund, as may be provided in the applicable Series Ordinance, and (ii) unless the City Council shall have determined pursuant to the Annual Budget that any such earnings on amounts in the Depreciation Fund and Contingent Fund shall remain therein.

Notwithstanding anything contained herein to the contrary and as limited solely to the funds held and invested by the Trustee, the Trustee shall have no obligation to enter into any repurchase agreement, investment agreement or any similar agreements with respect to the investment of any monies held under this Bond Ordinance unless (i) such agreement is in form and content acceptable to the Trustee in its sole discretion, (ii) any liability of the Trustee under such agreement is limited to loss occasioned by the negligence or willful misconduct of the Trustee, and (iii) the City shall pay to the Trustee an additional fee established by the Trustee in accordance with its customary practices.

ARTICLE VIII

DISPOSITION OF REVENUES

Section 8.01 Deposits.

So long as any Bonds are Outstanding, funds on deposit in the Gross Revenue Fund shall be applied at the times, in the amounts, and for the purposes provided or permitted by this Bond Ordinance. Revenues (including Interest Payment Subsidies) shall be deposited upon receipt from time to time by the City to System Account of the Gross Revenue Fund.

There shall be timely deposited to the Non-System Account of the Gross Revenue Fund such legally available moneys which the City Council in its sole discretion determines to apply for such purpose or which are otherwise made available by the City by one or more duly enacted ordinances.

Section 8.02 Payments for Bonds.

Provision shall be made for the payment of principal of, premium, if any, and interest on all Bonds then Outstanding without priority of any other Bonds but ratably as to each Series of Bonds. To that end:

- (1) From the System Account, to the extent Revenues are available, there shall be deposited into the Debt Service Fund and thereafter transferred into the respective Debt Service Fund Accounts (and thereafter to the respective interest sub-

accounts therein, if any) an amount not less than the monthly fraction of the aggregate amount of interest to become due on the respective Series of Bonds on the next ensuing Bond Payment Date; provided, however, that on or before the fifteenth day of the calendar month prior to an Interest Payment Date, there shall be transferred to each Debt Service Fund Account in the following order of priority: first, from the System Account the amount necessary, after taking into account the current balance in the applicable Debt Service Fund Account, to pay the installment of interest coming due on the applicable Series of Bonds on such Interest Payment Date, and then, to the extent necessary to pay such installment, from the Non-System Account (which amounts shall be designated in writing by the City to the Trustee and thereafter be credited or deposited to the respective sub-account therein, if any), so that on each Interest Payment Date the amount of interest to be paid shall have been accumulated and be on hand; provided, however, that if provision has been made for the payment of all or part of the next installment of interest to become due on any Bonds, or the Trustee is in receipt of any Interest Payment Subsidies, pursuant to any other provision of an Existing Ordinance, this Bond Ordinance, or any Series Ordinance, or by reason of investment earnings or otherwise, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

(2) From the System Account, to the extent Revenues are available, there shall be deposited into the Debt Service Fund and thereafter transferred into the respective Debt Service Fund Accounts (and thereafter to the respective principal or bond redemption sub-accounts therein, if any) an amount not less than the monthly fraction of the Principal Installment of the respective Series of Bonds next becoming due and payable within the next 12 months, or such shorter period as there may be between periodic payments of principal (whether at stated maturity or by sinking fund installments), so that on each Principal Payment Date the amount of principal to be paid shall have been accumulated and be on hand; provided, however, that on or before the fifteenth day of the calendar month prior to a Principal Payment Date, there shall be transferred to each Debt Service Fund Account in the following order of priority: first, from the System Account the amount necessary, after taking into account the current balance in the applicable Debt Service Fund Account, to pay the Principal Installment on the applicable Series of Bonds coming due on such Principal Payment Date, and then, to the extent necessary to pay such Principal Installment, from the Non-System Account (which amounts shall be designated in writing by the City to the Trustee and thereafter be credited or deposited to the respective sub-accounts therein, if any), so that on each Principal Payment Date the amount of principal to be paid shall have been accumulated and be on hand; provided, however, that if provision has been made for the payment of all or part of the next installment of principal to become due on the respective Series of Bonds, pursuant to any other provision of this Bond Ordinance, or any Series Ordinance, or by reason of investment earnings or otherwise, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

Section 8.03 Deposits for the Debt Service Reserve Funds-Valuation.

Deposits shall next be made from the System Account of the Gross Revenue Fund in the amounts required by this Section 8.03 or Section 4.02(5) into the respective Debt Service Reserve Funds. Except as provided in Section 7.04(B)(2), the Trustee shall calculate the value of the cash and securities in each Debt Service Reserve Fund 45 days prior to each Bond Payment Date in order to determine if each Debt Service Reserve Fund contains the Reserve Requirement

therefor, and the extent to which payments therefor or withdrawals must be made therefrom, and the timing thereof, pursuant to this Bond Ordinance and the respective Existing Ordinances or Series Ordinances. To the extent the Trustee determines that a deficiency exists, but such deficiency is solely the result of accounting practices governing the valuation of securities in the Debt Service Reserve Fund, the Trustee may alternatively calculate the value of the securities in each Debt Service Reserve Fund as of the maturity date of such securities, so long as such securities mature on or prior to the Bond Payment Date. Unless a Debt Service Reserve Fund is being funded pursuant to Section 4.02(5)(a) of this Bond Ordinance or otherwise contains cash and securities (or a surety bond, insurance policy, or letter of credit as herein described) in an amount at least equal to its Reserve Requirement, unless otherwise provided in the Existing Ordinance or Series Ordinance, there shall be paid into such Debt Service Reserve Fund on the last Business Day of each of the 24 months following a determination of a deficiency in such Debt Service Reserve Fund one twenty-fourth (1/24) of the amount necessary to re-establish in such Debt Service Reserve Fund its Reserve Requirement; provided, however, nothing herein shall preclude the City from fully re-establishing such Reserve Requirement in a more timely fashion than as so prescribed. Any surety bond, line of credit, insurance policy or letter of credit being used to meet the Reserve Requirement of a Debt Service Reserve Fund shall be valued at the amount still remaining to be drawn thereon; and in the event that any such surety bond, line of credit, insurance policy or letter of credit has been drawn upon, the amount necessary to restore the principal balance thereof shall be paid by the City in the same manner and on a parity with the payments described in this Section 8.03 or as provided in an insurance agreement or applicable Series Ordinance.

The market value of any Authorized Investments in a Debt Service Reserve Fund shall be calculated as follows:

(1) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if published therein, then in *The New York Times*): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

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

(3) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and

(4) as to any investment not specified above, the value thereof established by prior agreement between the City and the Trustee.

Section 8.04 Reimbursement of Interest on Amounts Advanced by Credit Providers for the Debt Service Reserve Fund.

Provision shall then be made for payment of interest and any fees or penalties on amounts advanced by the provider of any surety bond, line of credit, letter of credit or insurance policy as contemplated in Section 7.04(D) hereof.

1
2 Section 8.05 Payments for Junior Lien Bonds.

3
4 Provision shall then be made for the payment of any other indebtedness which is junior
5 and subordinate to the Bonds in the order of priority contemplated by the proceedings
6 authorizing their issuance.
7

8 Section 8.06 Deposits to the Operation and Maintenance Fund.
9

10 There shall be deposited in the Operation and Maintenance Fund first, from the Non-
11 System Account of the Gross Revenue Fund, and then from the System Account of the Gross
12 Revenue Fund, the amounts budgeted for Operation and Maintenance Expenses for the ensuing
13 month.
14

15 Section 8.07 Deposits for the Depreciation Fund and Contingent Fund.
16

17 A. There shall be deposited into the Depreciation Fund first, from the System
18 Account of the Gross Revenue Fund, and then from the Non-System Account of the Gross
19 Revenue Fund, that sum which is one-twelfth (1/12) of the sum which has been currently
20 determined by the City Council to be the budgeted requirement therefor for the then current
21 Fiscal Year.
22

23 B. There shall be deposited into the Contingent Fund first, from the System Account
24 of the Gross Revenue Fund, and then from the Non-System Account of the Gross Revenue Fund,
25 that sum which is one-twelfth (1/12) of the sum which has been currently determined by the
26 City Council to be the budgeted requirement therefor for the then current Fiscal Year.
27

28 Section 8.08 Annual Determination.
29

30 In any Fiscal Year, at such time as deposits to the Gross Revenue Fund equal the amounts
31 required to be paid pursuant to Sections 8.02 through 8.07 hereof for the then current Fiscal
32 Year, and, provided that each Debt Service Fund Account within the Debt Service Fund in the
33 aggregate has on deposit therein an amount equal to all Debt Service due on the Bonds for the
34 then current Fiscal Year, then any excess amount on deposit in or thereafter deposited to the
35 Gross Revenue Fund in such Fiscal Year may be released from the Gross Revenue Fund and
36 applied for any lawful purpose in such manner as the City Council shall from time to time
37 determine.
38

39 Section 8.09 Application of Accommodations Fees.
40

41 Notwithstanding anything in this Bond Ordinance to the contrary, to the extent that
42 Accommodations Fees are deposited to the Non-System Account, nothing in this Bond Ordinance
43 shall require the application of such Accommodations Fees for any purpose not permitted under
44 Section 6-1-530 Code of Laws of South Carolina 1976, as amended, or by the Accommodations
45 Fee Ordinance.
46

47 **ARTICLE IX**

48 **AGREEMENT TO FURNISH INFORMATION**
49 **WITH RESPECT TO SYSTEM**
50

1
2 Section 9.01 Keeping Records.
3

4 The City recognizes that those who may from time to time hereafter be Bondholders
5 will, throughout the life of the Bonds, require full information with respect to the System, the
6 fiscal affairs of the System, and all matters incident to each. To that end, the City hereby
7 covenants and agrees that it will install and thereafter at all times maintain proper books of
8 records and accounts, separate and distinct from all other records and accounts, in which
9 complete and correct entries shall be made of all transactions relating to the System, and all
10 revenues and receipts derived therefrom, directly or indirectly. Such books and records shall
11 be kept in such fashion as to reveal in detail:
12

13 (A) The Revenues of the System and the source from whence derived;
14

15 (B) All Operation and Maintenance Expenses;
16

17 (C) All amounts deposited in or appropriated to the Non-System Account;
18

19 (D) A schedule demonstrating compliance with Section 5.01(B) hereof for
20 such Fiscal Year;
21

22 (E) All expenditures made from the several funds established by this Bond
23 Ordinance, and Series Ordinances authorizing the issuance of the Bonds; and
24

25 (F) The rate schedules that may from time to time be in force.
26

27 Within seven months after the end of each Fiscal Year, the City shall provide to the Trustee
28 annual certification evidencing compliance with Section 9.01(D) and inclusion of such schedule
29 in the City's audited financial statements shall be sufficient for purposes of compliance
30 herewith.
31

32 Section 9.02 Audit Required.
33

34 The City further covenants and agrees that so long as any Bonds are Outstanding, it will,
35 not later than seven months after the close of each Fiscal Year, cause to be made and
36 completed by the Accountants, an audit of the records, books and accounts pertaining to the
37 System, made in accordance with Accounting Principles, showing, among other things, the
38 Revenues; and that it will furnish a copy of such audit to the Trustee. Such audit shall comment
39 upon any violation of any provision of any resolution authorizing the issuance of any Bonds or
40 Junior Lien Bonds and any violation of any provision of this Bond Ordinance noted by the
41 Accountants, and such other matters as to them seem pertinent. Any audits made available to
42 the City shall not otherwise be restricted as to their subsequent dissemination to any party.
43

44 Pursuant to the Act, the City will make available, upon request, for inspection during
45 regular business hours an unaudited balance sheet and income statement and other information
46 required thereby within six months of the close of the Fiscal Year.
47

48 **ARTICLE X**

49 **INSURANCE**
50

1
2 Section 10.01 Requirement of Insurance.
3

4 (A) The City covenants and agrees that so long as any Bonds are Outstanding:
5

6 (1) To the extent insurance coverage is available, that it will insure and at
7 all times keep the System insured against physical loss or damage with a responsible insurance
8 company or companies, authorized and qualified under the laws of the State, to assume the
9 risks insured against, in such amount as private corporations engaged in similar endeavors would
10 customarily insure for;
11

12 (2) That it will secure adequate fidelity bonds (blanket or individual) of a
13 surety company doing business in the State, indemnifying the City against defalcation of all
14 persons handling money derived from the System or signing checks on any bank accounts
15 relating to the System, other than the Trustee or any Registrar;
16

17 (3) That all premiums on all bonds or insurance policies shall be deemed an
18 Operation and Maintenance Expense and paid out of Revenues of the System;
19

20 (4) That all insurance policies shall be open to the inspection of any
21 Bondholder at any reasonable time;
22

23 (5) That all money received by the City as a consequence of any defalcation,
24 covered by any fidelity bond, shall be used to restore the fund depleted by the defalcation. All
25 sums received by the City from insurance policies covering the System may, to the extent
26 necessary, be applied to the repair and replacement of the damaged or destroyed property,
27 but, in the event that such money is not used for such purposes, then the same shall be
28 deposited in the Depreciation Fund or Contingent Fund; and
29

30 (6) That it will comply with the requirements of State law regarding the
31 mandatory purchase of liability insurance contained in Section 15-78-140(b) Code of Laws of
32 South Carolina 1976, as amended.
33

34 (B) Insurance required by this Section 10.01 may be provided through the South
35 Carolina Insurance Reserve Fund. The City may obtain or adopt alternative risk management
36 programs which an Insurance Consultant determines to be reasonable, including, without
37 limitation, self-insurance in whole or in part individually or in connection with other
38 institutions, participation in programs of captive insurance companies; participation with other
39 governmental entities in mutual or other cooperative insurance or other risk management
40 programs, participation in state or federal insurance programs, taking advantage of state or
41 federal laws now or hereafter in existence limiting liability, or establishing or participating in
42 other alternative risk management programs; all as may be approved by the Insurance
43 Consultant as reasonable and appropriate risk management by the City. If the City shall be self-
44 insured for any coverage, the City shall obtain a report of an Insurance Consultant stating
45 whether the anticipated funding of any self-insurance fund is actuarially sound, and if not, the
46 required funding to produce such result and such coverage shall be reviewed by the Insurance
47 Consultant not less frequently than every second year. Any self-insurance program shall be
48 subject to annual review by the Insurance Consultant who shall provide a written report to the
49 City which shall include recommendations relating to such self-insurance program. The City
50 shall provide to the Trustee annual certification evidencing compliance with the Insurance

1 Consultant's recommendations. The Trustee has no duty or obligation to make any
2 determination as to the sufficiency of the insurance required to be maintained hereunder.

3 4 ARTICLE XI

5 6 ADDITIONAL COVENANTS

7 8 Section 11.01 Additional Covenants to Secure Bonds.

9
10 The City further covenants and agrees:

11
12 (A) That neither the System, nor any part thereof, nor any of the revenues
13 derived from the System, have been or will be hypothecated, mortgaged, otherwise
14 pledged or encumbered, save and except in accordance with the provisions hereof;

15
16 (B) That it will permit no free service to be rendered, or use to be made of
17 the services and facilities of the System, and for the services and facilities of the
18 System used by the City, the reasonable cost and value of such services and facilities
19 shall be paid as such services accrue;

20
21 (C) That so long as there are any Bonds Outstanding and unpaid, it will
22 perform all duties with reference to the System required by the Constitution and
23 laws of the State;

24
25 (D) That it will not pledge, mortgage, or otherwise encumber the System or
26 any portion thereof, or any revenues therefrom except in the manner herein
27 authorized, and the City further obligates itself and covenants and agrees with the
28 Bondholders to maintain in good condition and to operate said System, and to collect
29 and charge such rates for the services and facilities of the System so that the income
30 and revenues of the System will be sufficient at all times to meet the requirements
31 of this Bond Ordinance. If anything belonging to the System shall be sold or disposed
32 of, the allocable proceeds of such sale or disposition shall be deposited in the System
33 Account of the Gross Revenue Fund;

34
35 (E) That it will permit, so long as there are any Bonds Outstanding, any
36 Bondholder to inspect the System and all records and accounts thereof under
37 reasonable terms and conditions and after reasonable notice has been given;

38
39 (F) That it will not make any use, and it shall direct the Trustee and each
40 Fiduciary not to make any use of the proceeds of any Series of Bonds which Bonds
41 were intended upon the issuance thereof to be exempt from federal income
42 taxation, which, if such use had been reasonably expected on the date of the
43 issuance of the Bonds of such Series would have caused such Bonds or any other
44 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and
45 will observe and not violate the requirements of Section 148 of the Code;

46
47 (G) That, as to any Series of Bonds that was intended at the time of their
48 issuance to be exempt from federal income taxation, it will take all actions required
49 of it under the Code that are necessary to preserve the tax-exempt status of such
50 Series of Bonds, including without limitation, actions necessary to comply with all

1 information reporting requirements and any obligation to rebate arbitrage earnings
2 on the proceeds of such Bonds to the United States Government;
3

4 (H) That it will make all payments or deposits required under Articles VII and
5 VIII of this Bond Ordinance in a timely manner;
6

7 (I) In adopting the Annual Budget, the City shall determine whether it
8 expects to have sufficient amounts available in the Gross Revenue Fund to make, in
9 such Fiscal Year, the payments and transfers agreed to pursuant to Sections 8.02
10 through 8.07 of this Bond Ordinance. If the City does not expect to have sufficient
11 amounts available in the Gross Revenue Fund for such purpose, City Council shall
12 consider a budgetary appropriation from legally available funds in an amount that,
13 together with funds on deposit in the System Account and Non-System Account of
14 the Gross Revenue Fund, each Debt Service Fund Account and any Debt Service
15 Reserve Fund, will be sufficient to provide for the interest and Principal Installments
16 on the Bonds in such Fiscal Year. Any such lawfully appropriated funds shall be
17 deposited to the Non-System Account of the Gross Revenue Fund not later than the
18 beginning of each Fiscal Year for which any legally available funds have been
19 appropriated. In considering such budgetary appropriation, the City Council may in
20 its sole discretion determine not to make the budgetary appropriation (a
21 ***“Determination of Nonappropriation”***) described above and such Determination of
22 Nonappropriation shall not constitute an Event of Default under this Bond Ordinance,
23 nor shall the City have any obligation to enact such appropriation; and
24

25 (J) Wherever in this Bond Ordinance there is a statement to the effect that
26 the City may apply such other legally available moneys as the City Council shall in
27 its discretion determine to apply for a purpose, or words of similar import, such
28 application shall be made by City Council applying its legislative discretion in
29 determining whether to apply such moneys. Any payment from other available
30 moneys described in this Bond Ordinance shall constitute a current expense of the
31 City and shall not in any way be construed to be a debt of the City in contravention
32 of any applicable constitutional or statutory limitations or requirements concerning
33 the creation of indebtedness of the City, nor shall anything contained in this Bond
34 Ordinance constitute or give rise to a general obligation or pledge of the general tax
35 revenues, taxing power or full faith or credit of the City Council. Any such budgetary
36 appropriation shall be subject in all respects to the discretion of City Council, and
37 any failure to make such an appropriation, notwithstanding any provision of this
38 Bond Ordinance to the contrary, shall not constitute a default or Event of Default
39 under this Bond Ordinance.
40

41 ARTICLE XII

42 MODIFICATION OF ORDINANCE

43 Section 12.01 Modification without Bondholder Approval.

44
45 (A) Provided always that the security of the Bonds shall not be diminished,
46 or in any manner impaired, the City Council may for any one or more of the following
47 purposes at any time, or from time to time, enact an ordinance, amending or
48
49

1 supplementing this Bond Ordinance, which supplemental ordinance shall be fully
2 effective in accordance with its terms:

3
4 (1) to provide for the issuance of a Series of Bonds in accordance with Article
5 IV of this Bond Ordinance;

6
7 (2) to add to the covenants and agreements of the City in this Bond
8 Ordinance, other covenants and agreements thereafter to be observed;

9
10 (3) to surrender any right, power or privilege reserved to or conferred upon
11 the City by this Bond Ordinance;

12
13 (4) to cure, correct and remove any ambiguity or inconsistent provisions
14 contained in this Bond Ordinance; and

15
16 (5) for any other purpose which, in the opinion of Bond Counsel, does not
17 materially affect the interests of the Bondholders.

18
19 (B) It is further provided that such supplemental ordinance shall not become
20 effective until a copy thereof, duly certified, shall have been filed in the office of
21 the Clerk of Court for the County. Further, regarding amendments under Section
22 12.01(A)(2), (3) or (4), there shall be filed with the Trustee an opinion of bond
23 counsel stating that such amendatory or supplemental ordinance has been duly and
24 lawfully enacted by the City in accordance with this Bond Ordinance and is valid and
25 binding upon the City. At the written direction of the City, the Trustee will promptly
26 give notice of enactment and a copy of any modification made hereunder to any
27 Insurer.

28
29 Section 12.02 Modification with Bondholder Approval.

30
31 The rights and duties of the City and the Bondholders and the terms and provisions of
32 this Bond Ordinance may be modified or altered in any respect by an ordinance enacted by the
33 City Council with the consent of the Holders of 51% or more in principal amount of all Bonds of
34 each Series which would be affected by such modification or alteration then Outstanding and
35 the prior written consent of the Insurer, if any, of each such Series of Bonds, such consent to
36 be evidenced in such manner as may be acceptable to the Trustee, however no such
37 modification or alteration shall, without the consent of the Holders of all Bonds affected by
38 such change or modification:

39
40 (A) Effect a change as to the type of currency in which the City is obligated
41 to effect payment of the principal, interest and redemption premium of any Bond;

42
43 (B) Permit the creation of a pledge of the revenues of the System prior to or
44 equal to the Bonds except as may be permitted under the provisions of this Bond
45 Ordinance;

46
47 (C) Permit preference or priority of any Bonds to others;

48
49 (D) Alter or modify the provisions of Section 4.02 or of Articles V, VII, and VIII
50 hereof; or

1
2 (E) Reduce the percentage required for the written consent to the
3 modification or alteration of the provisions of this Bond Ordinance.
4

5 Section 12.03 Procedure for Procuring Bondholder Approval.
6

7 The City and the Trustee may rely upon the registry books maintained by the Registrar
8 to determine who are the Holders of the Bonds. Any and all modifications made pursuant to
9 Section 12.02 shall not become effective until (1) there has been filed with the Clerk of Court
10 for the County and with the Trustee a copy of such amendatory ordinance hereinabove provided
11 for, duly certified, (2) there has been filed with the Trustee an opinion of bond counsel stating
12 that such amendatory or supplemental ordinance has been duly and lawfully enacted by the
13 City in accordance with this Bond Ordinance and is valid and binding upon the City, and (3)
14 proof of consent to such modification by the Holders (depending on the type of modification)
15 of (A) 51% in principal amount of the Bonds of each Series then Outstanding or (B) all Bonds
16 Outstanding, shall be filed with the Trustee. In the event that any Series of Bonds are held
17 under a book-entry system pursuant to Section 4.21, the approvals of Bondholders may be
18 obtained in the manner provided in the agreement with the Securities Depository.
19

20 Section 12.04 Notice to Rating Agencies.
21

22 Any rating agency rating a Series of Bonds shall be provided notice by the City and a
23 copy of any amendment to this Bond Ordinance or to any Series Ordinance within 15 days of its
24 execution or enactment; notice electronically filed on the Municipal Securities Rulemaking
25 Board's EMMA system shall be deemed sufficient upon such filing for purposes of this Section
26 12.04.
27

28 **ARTICLE XIII**

29 **EVENTS OF DEFAULT**
30

31
32 Section 13.01 Events of Default.
33

34 (A) Each of the following events is hereby declared to be an "***Event of Default***":
35

36 (1) Payment of the principal of any of the Bonds shall not be made when the
37 same shall become due and payable, either at maturity or by proceedings for
38 redemption;
39

40 (2) Payment of any installment of interest on any Bonds shall not be made
41 when the same becomes due and payable;
42

43 (3) The City shall not comply with the rate covenant in Section 5.01(B) herein
44 for a period of two consecutive Fiscal Years;
45

46 (4) The City shall for any reason be rendered incapable of fulfilling its
47 obligations hereunder;
48

49 (5) An order or decree shall be entered with the consent or acquiescence of
50 the City appointing a receiver, or receivers, of the System, or of the revenues thereof,

1 or any proceedings shall be instituted with the consent or acquiescence of the City for
2 the purpose of effecting a composition between the City and its creditors whose claims
3 relate to the System, or for the purpose of adjusting claims of such creditors, pursuant
4 to any federal or State statute now or hereafter enacted, or if such order or decree,
5 having been entered without the consent or acquiescence of the City, shall not be
6 vacated or discharged or stayed on appeal within 60 days after entry thereof, or if such
7 proceeding having been instituted without the consent or acquiescence of the City, shall
8 not be withdrawn or any orders entered shall not be vacated, discharged, or stayed on
9 appeal within 60 days after the institution of such proceedings, or the entry of such
10 orders;

11
12 (6) The City shall fail to operate the System in an efficient and businesslike
13 fashion so as to materially impair the operations of the System or shall default in the
14 due and punctual performance of any other of the covenants, conditions, agreements
15 or provisions contained in the Bonds or in this Bond Ordinance, and such default as to
16 efficient operation or otherwise shall continue for 30 days after written notice,
17 specifying such default and requiring the same to be remedied, shall have been given
18 to the City by any Bondholder, provided that in the case of default specified in this
19 paragraph (5), if the default be such that it cannot be corrected within the said 30-day
20 period, it shall not constitute an event of default if corrective action is instituted by the
21 City within said 30-day period and diligently pursued until the default is corrected;

22
23 (7) The occurrence of an event of default on the part of the City under any
24 reimbursement agreement between the City and a provider of a surety bond, insurance
25 policy or letter of credit as contemplated under Section 7.04(D) hereof; and

26
27 (8) Such other events of default as may be specified in an Existing Ordinance
28 or a Series Ordinance.

29
30 In determining whether a default in payment has occurred under paragraphs (1) or (2) of this
31 subsection (A) and in determining whether a payment on Bonds has been made under any other
32 provision of this Bond Ordinance, no effect shall be given to payments made under a Municipal
33 Bond Insurance Policy.

34
35 (B) The foregoing provisions of paragraphs (3), (4) and (5) of the preceding
36 subsection (A) are subject to the following limitations: If by reason of "force
37 majeure" the City is unable in whole or in part to carry out its agreements herein
38 contained (other than the obligations on the part of the City contained in any of
39 Section 4.02 or Articles VII and VIII hereof as to which this paragraph shall have no
40 application), the City shall not be deemed in default during the continuance of such
41 inability. The term "force majeure" as used herein shall mean, without limitation,
42 the following: acts of God; strikes; lockouts or other industrial disturbances; acts of
43 public enemies; orders of any kind of the government of the United States or of the
44 State or any of their departments, agencies, or officials, or any civil or military
45 authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire;
46 hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and
47 people; civil disturbances; explosions; breakage or accident to machinery, tunnels
48 or canals; partial or entire failure of utilities; or any other cause or event not
49 reasonably within the control of the City, it being agreed that the settlement of
50 strikes, lockouts and other industrial disturbances shall be entirely within the

1 discretion of the City, and the City shall not be required to make settlement of
2 strikes, lockouts and other industrial disturbances by acceding to the demands of
3 the opposing party or parties when such course is in the judgment of the City
4 unfavorable to the City.

5 6 **ARTICLE XIV**

7 8 **REMEDIES**

9 10 Section 14.01 Acceleration; Annulment of Acceleration.

11
12 (A) Upon the occurrence of an Event of Default pursuant to Sections
13 13.01(A)(1) or (2), the Trustee may, and shall, upon the written request of the
14 Holders of not less than 51% in aggregate principal amount of Bonds Outstanding, by
15 notice in writing to the City, declare all Bonds Outstanding immediately due and
16 payable, and such Bonds shall become and be immediately due and payable,
17 anything in the Bonds or in this Bond Ordinance to the contrary notwithstanding. In
18 such event, there shall be due and payable on the Bonds an amount equal to the
19 total principal amount of all such Bonds, plus all interest accrued thereon and which
20 will accrue thereon to the date of payment.

21
22 (B) At any time after the principal of the Bonds shall have been so declared
23 to be due and payable and before the entry of final judgment or decree in any suit,
24 action or proceeding instituted on account of such default, or before the completion
25 of the enforcement of any other remedy under this Bond Ordinance, the Trustee
26 shall annul such declaration and its consequences with respect to any Bonds not then
27 due by their terms if:

28
29 (1) Moneys shall have been deposited in the Debt Service Fund sufficient to
30 pay all matured installments of interest and principal (other than principal then due
31 only because of such declaration) of all Outstanding Bonds;

32
33 (2) Moneys shall have been deposited with the Trustee sufficient to pay the
34 charges, compensation, expenses, disbursements, advances and liabilities of the
35 Trustee;

36
37 (3) All other amounts then payable by the City hereunder shall have been
38 paid or a sum sufficient to pay the same shall have been deposited with the Trustee;
39 and

40
41 (4) Every Event of Default known to the Trustee (other than a default in the
42 payment of the principal of such Bonds then due only because of such declaration) shall
43 have been remedied to the satisfaction of the Trustee.

44
45 No such annulment shall extend to or affect any subsequent Event of Default or impair any right
46 consequent thereon.

47 48 Section 14.02 Additional Remedies and Enforcement of Remedies.

1 (A) Upon the occurrence and continuance of any Event of Default, subject to
2 the provisions of Section 17.01 hereof, the Trustee may, and upon the written
3 request of the Holders of not less than 51% in aggregate principal amount of the
4 Bonds Outstanding, together with indemnification of the Trustee to its satisfaction
5 therefor, shall proceed forthwith to protect and enforce its rights and the rights of
6 the Bondholders under this Bond Ordinance by such suits, actions or proceedings as
7 the Trustee, being advised by counsel, shall deem expedient, including but not
8 limited to:
9

10 (1) Seeking a *writ of mandamus*, requiring the City to carry out its duties and
11 obligations under the terms of this Bond Ordinance and under the Act;
12

13 (2) Suit upon all or any part of the Bonds;
14

15 (3) Civil action to require the City to account as if it were the trustee of an
16 express trust for the Holders of Bonds;
17

18 (4) Civil action to enjoin any acts or things which may be unlawful or in
19 violation of the rights of the Holders of the Bonds; or
20

21 (5) Enforcement of any other right of the Bondholders conferred by law or by
22 this Bond Ordinance including the right to make application for the appointment of a
23 receiver to administer and operate the System.
24

25 (B) Regardless of the happening of an Event of Default, the Trustee, if
26 requested in writing by the Holders of not less than 51% in aggregate principal
27 amount of the Bonds then Outstanding, and upon receipt of assurances of
28 indemnification of the Trustee, the sufficiency of which shall be determined in the
29 Trustee's sole discretion, shall institute and maintain such suits and proceedings as
30 it may be advised by counsel shall be necessary or expedient:
31

32 (1) To prevent any impairment of the security under this Bond Ordinance by
33 any acts which may be unlawful or in violation of this Bond Ordinance; or
34

35 (2) To preserve or protect the interests of the Bondholders, provided that
36 such request is in accordance with law and the provisions of this Bond Ordinance and,
37 in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the
38 Holders of Bonds not making such request.
39

40 (C) When the Trustee incurs costs or expenses (including legal fees, costs and
41 expenses) or renders services after the occurrence of an Event of Default, such costs and
42 expenses and the compensation for such services are intended to constitute expenses of
43 administration under any federal or state bankruptcy, insolvency, arrangement, moratorium,
44 reorganization or other debtor relief law.
45

1 Section 14.03 Application of Revenues and Other Moneys after an Event of Default.

2
3 (A) The City covenants that if an Event of Default shall happen and
4 shall not have been remedied, the City, upon demand of the Trustee, shall pay
5 or cause to be paid over to the Trustee:
6

7 (1) Forthwith, all moneys and securities then held by the City which are
8 credited to any fund under this Bond Ordinance. Any moneys and securities in any
9 Project Fund created with proceeds of Bonds if construction of the projects to be paid
10 for thereby has been completed or terminated but exclusive of any amounts remaining
11 in such Project Fund that are in dispute between the City and any contractor; provided,
12 however, any monies in a Debt Service Fund Account or Debt Service Reserve Fund shall
13 be applied only toward a Series of Bonds for which such Debt Service Fund Account or
14 Debt Service Reserve Fund was established; and
15

16 (2) As promptly as practicable after receipt thereof, all Revenues.
17

18 (B) During the continuance of an Event of Default, the Trustee shall
19 apply all moneys, securities, Revenues, payments and receipts in its possession
20 and the income therefrom as follows and in the following order:
21

22 (1) To the payment of the reasonable and proper charges of the Trustee and
23 its reasonable counsel fees and expenses;
24

25 (2) To the payment of the interest and principal (and redemption premium,
26 if any) then due on the Bonds, as follows:
27

28 (a) Unless the principal of all of the Bonds shall have become or have
29 been declared due and payable,
30

31 (i) First: To the payment of the persons entitled thereto of all
32 installments of interest then due in the order of the maturity of such
33 installments, and, if the amount available shall not be sufficient to pay
34 in full any installment or installments maturing on the same date, then
35 to the payment thereof ratably, according to the amounts due thereon to
36 the persons entitled thereto, without any discrimination or preference;
37

38 (ii) Second: To the payment to the persons entitled thereto of
39 the unpaid Principal Installments (and redemption premiums, if any) of
40 any Bonds which shall have become due, whether at maturity or by call
41 for redemption, in the order of their due dates, and if the amounts
42 available shall not be sufficient to pay in full all the Bonds due on any
43 date, then to the payment thereof ratably, according to the amounts of
44 principal (plus redemption premium, if any) due on such date, to the
45 persons entitled thereto, without any discrimination or preference.
46

47 (b) If the principal of all of the Bonds shall have become or have been
48 declared due and payable, to the payment of the principal and interest then due
49 and unpaid upon the Bonds without preference or priority of principal over
50 interest or of interest over principal, or of any installment of interest over any

1 other installment of interest, or of any Bond over any other Bond, ratably,
2 according to the amounts due respectively for principal and interest, to the
3 persons entitled thereto without any discrimination or preference except as to
4 any differences as to the respective rates of interest specified in the Bonds;

5
6 (3) To the payment of the amounts required by Section 8.03, ratably,
7 according to the amounts due thereon to the persons entitled thereto;

8
9 (4) To the payment of the amounts required by Section 8.04, ratably,
10 according to the amounts due thereon to the persons entitled thereto;

11
12 (5) To the payment of the amounts required by Section 8.05, ratably,
13 according to the amounts due thereon to the persons entitled thereto;

14
15 (6) To the payment of necessary Operation and Maintenance Expenses;

16
17 (7) To the payment of the amounts required by Section 8.07(A), ratably,
18 according to the amounts due thereon to the persons entitled thereto; and

19
20 (8) To the payment of the amounts required by Section 8.07(B), ratably,
21 according to the amounts due thereon to the persons entitled thereto.

22
23 Section 14.04 Remedies Not Exclusive.

24
25 No remedy by the terms of this Bond Ordinance conferred upon or reserved to the
26 Trustee or the Bondholders or any Insurer is intended to be exclusive of any other remedy, but
27 each and every such remedy shall be cumulative and shall be in addition to every other remedy
28 given under this Bond Ordinance or existing at law or in equity or by statute (including the Act)
29 on or after the date hereof.

30
31 Section 14.05 Remedies Vested in Trustee.

32
33 All rights of action (including the right to file proof of claims) under this Bond Ordinance
34 or under any of the Bonds may be enforced by the Trustee without the possession of any of the
35 Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit
36 or proceedings instituted by the Trustee shall be brought in its name as Trustee without the
37 necessity of joining as plaintiffs or defendants any Holders of the Bonds. Subject to the
38 provisions of Section 14.03 hereof, any recovery of judgment shall be for the equal benefit of
39 the Holders of the Outstanding Bonds.

40
41 Section 14.06 Majority of Bondholders Control Proceedings.

42
43 If an Event of Default shall have occurred and be continuing, notwithstanding anything
44 in this Bond Ordinance to the contrary, the Holders of at least a majority in aggregate principal
45 amount of Bonds then Outstanding shall have the right, at any time, by an instrument in writing
46 executed and delivered to the Trustee, to direct the method and place of conducting any
47 proceeding to be taken in connection with the enforcement of the terms and conditions of this
48 Bond Ordinance or for the appointment of a receiver or any other proceedings hereunder,
49 provided that such direction is in accordance with law and the provisions of this Bond Ordinance
50 (including indemnity to the Trustee) and, in the sole judgment of the Trustee, is not unduly

1 prejudicial to the interests of the Bondholders not joining in such direction and provided further
2 that nothing in this Section 14.06 shall impair the right of the Trustee in its discretion to take
3 any other action under this Bond Ordinance which it may deem proper and which is not
4 inconsistent with such direction by Bondholders.

5
6 Section 14.07 Individual Bondholder Action Restricted.
7

8 (A) No Holder of any Bond shall have any right to institute any suit, action,
9 or proceeding in equity or at law for the enforcement of this Bond Ordinance or for
10 the execution of any trust hereunder or for any remedy under this Bond Ordinance
11 unless:

12
13 (1) An Event of Default has occurred:

14 (a) under paragraph (1) or (2) of subsection (A) of Section 13.01
15 hereof;

16 (b) as to which a Responsible Officer of the Trustee has actual notice;
17 and

18 (c) as to which the Trustee has been notified in writing.
19
20

21 (2) The Holders of at least 25% in aggregate principal amount of Bonds
22 Outstanding shall have made written request to the Trustee to proceed to exercise the
23 powers granted in this Bond Ordinance or to institute such action, suit or proceeding in
24 its own name;
25

26 (3) Such Bondholders shall have provided assurances of indemnification of
27 the Trustee, the sufficiency of which shall be determined in the Trustee's sole
28 discretion; and
29

30 (4) The Trustee shall have failed or refused to exercise the powers herein
31 granted or to institute such action, suit or proceedings in its own name for a period of
32 60 days after receipt by it of such request and offer of indemnity.
33

34 (B) No one or more Holders of Bonds shall have any right in any manner
35 whatsoever to affect, disturb or prejudice the security of this Bond Ordinance or to
36 enforce any right hereunder except in the manner herein provided and for the equal
37 benefit of the Holders of all Bonds Outstanding.
38

39 (C) Nothing contained in this Bond Ordinance shall affect or impair, or be
40 construed to affect or impair, the right of the Holder of any Bond:
41

42 (1) To receive payment of the principal of or interest on such Bond on the
43 due date thereof; or
44

45 (2) To institute suit for the enforcement of any such payment on or after
46 such due date.
47
48
49

1 Section 14.08 Termination of Proceedings.

2
3 In case any proceeding taken by the Trustee or any Bondholder on account of any Event
4 of Default shall have been discontinued or abandoned for any reason or shall have been
5 determined adversely to the Trustee or the Bondholders, the City, the Trustee and the
6 Bondholders shall be restored to their former positions and rights hereunder, and all rights,
7 remedies and powers of the Trustee and the Bondholders shall continue as if no such proceeding
8 had been taken.
9

10 Section 14.09 Waiver and Nonwaiver of Event of Default.

11
12 (A) No delay or omission of the Trustee or of any Holder of the Bonds to
13 exercise any right or power accruing upon any Event of Default shall impair any such
14 right or power or shall be construed to be a waiver of any such Event of Default or an
15 acquiescence therein. Every power and remedy given by this Article XIV to the Trustee
16 and the Holders of the Bonds, respectively, may be exercised from time to time and as
17 often as may be deemed expedient.
18

19 (B) The Trustee may waive any Event of Default which in its opinion (and in
20 reliance on the opinion of legal counsel as necessary) shall have been remedied before
21 the entry of final judgment or decree in any suit, action or proceeding instituted by it
22 under the provisions of this Bond Ordinance, or before the completion of the
23 enforcement of any other remedy under this Bond Ordinance.
24

25 (C) Notwithstanding anything contained in this Bond Ordinance to the
26 contrary but subject to the provisions of Section 17.01 hereof, the Trustee, upon the
27 written request of the Holders of at least a majority of the aggregate principal amount
28 of Bonds then Outstanding (including, if more than one Series of Bonds shall at the time
29 be Outstanding, the Holders of a majority in principal amount of all Bonds then
30 Outstanding of each such Series), shall waive any Event of Default hereunder and its
31 consequences; provided, however, that except under the circumstances set forth in
32 subsection (B) of Section 14.01 hereof or subsection (B) of this Section 14.09, a default
33 in the payment of the principal of, premium, if any, or interest on, any Bond, when the
34 same shall become due and payable by the terms thereof or upon call for redemption,
35 may not be waived without the written consent of the Holders of all the Bonds at the
36 time Outstanding.
37

38 (D) In case of any waiver by the Trustee of an Event of Default hereunder,
39 the City, the Trustee, each Insurer and the Bondholders shall be restored to their former
40 positions and rights under this Bond Ordinance, respectively, but no such waiver shall
41 extend to any subsequent or other Event of Default or impair any right consequent
42 thereon. The Trustee shall not be responsible to anyone for waiving or refraining from
43 waiving any Event of Default in accordance with this Section 14.09.
44

45 Section 14.10 Notice of Events of Default.

46
47 (A) Within 30 days after:

48
49 (1) The receipt of notice of an Event of Default as provided in Sections
50 14.07(A)(1)(b) or (c) hereof; or

1
2 (2) The occurrence of an Event of Default under paragraphs (1) or (2) of
3 subsection (A) of Section 13.01 hereof, as to which the Trustee shall be deemed to have
4 notice,

5
6 the Trustee shall, unless such Event of Default shall have theretofore been cured, give written
7 notice thereof by first class mail to each Insurer of any Series of Bonds then Outstanding, if
8 any, and to each Holder of Bonds then Outstanding, provided that, except in the case of a
9 default in the payment of principal of, together with premium, if any and interest on any of
10 the Bonds, the Trustee may withhold such notice if, in its sole judgment, it determines that
11 the withholding of such notice is in the best interests of the Bondholders.

12
13 (B) The Trustee shall immediately notify the City and each Insurer of any
14 Series of Bonds then Outstanding of any Event of Default actually known to a
15 Responsible Officer of the Trustee.

16
17 Section 14.11 Rights of Insurers.

18
19 Any Series Ordinance may provide that any Insurer, insuring the applicable Series of
20 Bonds, upon the occurrence of an Event of Default and with respect to all remedies provided
21 herein, may prevent the acceleration of the Bonds of all Series or may prevent the annulment
22 of the acceleration of the Bonds of all Series. Such Insurer may be subrogated to the rights to
23 payment of the Holders of any Bonds with respect to which it pays any principal or interest on
24 the Bonds owned by that Holder.

25
26 **ARTICLE XV**

27
28 **TRUSTEE AND ITS FUNCTIONS; OTHER FIDUCIARIES**

29
30 Section 15.01 Appointment and Vesting of Powers in Trustee; Limitation of Rights of
31 Bondholders to Appoint Trustee.

32
33 U.S. Bank Trust Company, National Association is hereby appointed as the Trustee under
34 this Bond Ordinance. The Trustee shall signify its acceptance of the duties of Trustee upon
35 delivery of the first Series of Bonds issued hereunder. The Trustee shall be and is hereby vested
36 with all rights and powers necessary to enable it to discharge its duties hereunder but the right
37 of the Bondholders to appoint a Trustee hereunder is limited to the circumstances
38 contemplated by Section 15.10 hereof.

39
40 Section 15.02 Functions of Trustee.

41
42 The Trustee shall have the following additional functions:

43
44 (A) To authenticate the Bonds of all Series that may be issued;

45
46 (B) Except as otherwise provided herein, to act as custodian of the Debt
47 Service Fund and each Debt Service Fund Account (and any subaccounts thereof)
48 established thereunder;

1 (C) Except as otherwise provided herein, to act as custodian of the Debt
2 Service Reserve Funds, if any;

3
4 (D) Except as otherwise provided herein, to act as Paying Agent for the Bonds;

5
6 (E) Unless otherwise prescribed by any Series Ordinance, to act as Registrar
7 for the Bonds, and to maintain a set of registration books therefor, which shall at all
8 times accurately reflect the names and addresses of all those who may be Holders
9 of any Bonds;

10
11 (F) To make reports to the City on a monthly or such other basis as may be
12 requested by the City, but not less often than semi-annually;

13
14 (1) Establishing balances on hand;

15
16 (2) Listing investments made for any fund handled by the Trustee;

17
18 (3) Establishing the market value of the Debt Service Reserve Funds; and

19
20 (4) Listing all securities, if any, pursuant to Section 15.13 hereof.

21
22 Section 15.03 Duty of Trustee with Respect to Deficits in the Debt Service Fund.

23
24 It shall be the further duty of the Trustee to give written notice to the City three
25 Business Days prior to each Bond Payment Date, if there is any deficiency in any Debt Service
26 Fund Account which would result in a need for further moneys to meet the payment of interest
27 and/or principal falling due on the next ensuing Bond Payment Date, and the extent, if any, to
28 which resort must be had to the respective Debt Service Reserve Fund to meet such deficiency.

29
30 Section 15.04 Acceptance by Trustee Required.

31
32 Prior to the delivery of any Bonds, the Trustee appointed pursuant to Section 15.01
33 hereof shall signify its acceptance of the powers, duties and obligations conferred and imposed
34 upon it by this Bond Ordinance, by executing and delivering to the City a written acceptance
35 thereof.

36
37 Section 15.05 Liability as to Recitals in Bond Ordinance and Bonds.

38
39 The recitals of fact made in this Bond Ordinance and in the Bonds shall be taken as
40 statements of the City, and the Trustee shall not be deemed to have made any representation
41 as to the correctness of the same, nor shall the Trustee be deemed to have made any
42 representation whatsoever as to the validity or sufficiency of this Bond Ordinance or of the
43 Bonds issued hereunder except with respect to the authentication of any Bonds. Nor shall the
44 Trustee be under any responsibility or duty with respect to the issuance of said Bonds, or the
45 application of the proceeds thereof, except to the extent provided for herein. Nor shall the
46 Trustee be liable in connection with the performance of its duties hereunder, except for its
47 own negligence or default.

1 Section 15.06 Trustee May Rely on Notices, Certificates, and other Documents.

2
3 The Trustee shall at all times be protected in acting upon any notice, resolution,
4 request, consent, order, certificate, statement, opinion, bond, or other paper or document
5 believed to be genuine and to have been signed by the proper party or parties.
6

7 Section 15.07 Trustee Permitted to Resign.

8
9 The Trustee may, at any time, resign and be discharged of its duties and obligations
10 hereunder by giving to the City and the Bondholders written notice of such resignation,
11 specifying a date (not less than 60 days after such notice) when such resignation is intended to
12 take effect. Such resignation shall take effect immediately upon but not before the
13 appointment and qualification of such successor. If after 60 days no successor has been
14 appointed, the Trustee may petition a court of competent jurisdiction to appoint a successor.
15

16 Section 15.08 Removal of Trustee.

17
18 (A) The Trustee may be removed at any time by the Holders of not
19 less than 51% of the principal amount of Bonds at such time Outstanding upon 30
20 days' written notice to the Trustee.
21

22 (B) Provided an Event of Default has not occurred and is not
23 continuing, the Trustee may be removed at any time by the City upon 30 days'
24 written notice to the Trustee.
25

26 (C) Any such removal shall take effect immediately (after the 30-day
27 notice period) upon, but not before the appointment and qualification of such
28 successor.
29

30 Section 15.09 Appointment of Successor Trustee Upon Resignation or Removal of Trustee.

31
32 (A) In case at any time the Trustee shall resign, or be removed or
33 become incapable of acting, or be adjudged bankrupt or insolvent, or a receiver
34 of its property shall be appointed, or any public officer shall take charge or
35 control of its property or affairs, a successor thereto shall be promptly appointed
36 by an ordinance of the City duly enacted. Such successor shall in all instances be
37 a bank or a trust company, and duly chartered pursuant to the laws of the United
38 States or of any state and shall have a combined capital and surplus of not less
39 than \$500,000,000.
40

41 (B) Immediately following such appointment, the City shall give
42 written notice of such appointment to the Bondholders and any Registrar other
43 than the Trustee.
44

45 Section 15.10 When Bondholder May Seek Successor Trustee.

46
47 If, in a proper case, no appointment of a successor Trustee shall be promptly made
48 pursuant to Section 15.09, any Bondholder, the resigning or removed Trustee may make
49 application to any court of competent jurisdiction for the appointment of a successor and said

1 court may thereupon, after such notice, if any, as such court may prescribe, appoint a
2 successor.

3
4 Section 15.11 Acceptance by Successor Trustee.

5
6 Any successor Trustee appointed hereunder shall execute and deliver to its predecessor
7 and to the City a written acceptance of such appointment, and thereupon such successor,
8 without any further act, deed or conveyance, shall become fully vested with all moneys,
9 estates, properties, rights, powers, duties and obligations of its predecessor hereunder with
10 like effect as if originally named as such Trustee and its predecessor shall be obligated to pay
11 over, transfer, assign and deliver all moneys, securities and other property held by it to its
12 successor, and on the written request of the City, or the successor, shall execute, acknowledge
13 and deliver such instruments of conveyance and further assurance and do such other things as
14 may be reasonably required for the vesting and confirming in such successor all the right, title
15 and interest of the predecessor in and to any property held by it.

16
17 Section 15.12 Effect of Trustee Merging with another Bank.

18
19 Any bank or trust company into which the Trustee may be merged, or with which it may
20 be consolidated, or any bank or trust company resulting from any merger or consolidation to
21 which it shall be a party, or any bank or trust company to which the Trustee may sell or transfer
22 all or substantially all of its corporate trust business, shall become the successor without the
23 execution or filing of any paper or the performance of any further act; provided, always, that
24 if the City shall be dissatisfied with the institution resulting from the merger, consolidation or
25 other action spoken of above, then the City may at any time within 30 days after such action
26 name a new Trustee (with the qualifications prescribed by Section 15.09 hereof) in lieu of the
27 Trustee then acting.

28
29 Section 15.13 Trustee to Secure Funds and Securities Held in Trust.

30
31 Unless the same be secured as trust funds in the manner provided by the regulations of
32 the Comptroller of the Currency as from time to time in effect, all funds or securities in the
33 custody of the Trustee, in excess of the amount of such deposit insured by the Federal Deposit
34 Insurance Corporation, shall be invested in Authorized Investments at the written direction of
35 the City.

36
37 Section 15.14 Disposition of Paid Bonds.

38
39 It shall be the duty of the Trustee to cancel all Bonds which shall have been paid,
40 whether upon their maturity or redemption prior to maturity; such cancellation shall be done
41 in such fashion as to render such Bonds incapable of further negotiation or hypothecation. In
42 any event it shall furnish appropriate certificates or other documentation acceptable to the
43 City indicating the disposition of such Bonds.

44
45 Section 15.15 Appointment of Substitute Registrar.

46
47 The City may, from time to time, appoint a Registrar or Registrars to act in the place
48 and stead of the Trustee as Registrar of the Bonds of one or more Series. The City shall cause
49 written notice of such appointment to be mailed to the Holders of all Bonds affected by such
50 appointment 30 days prior to the effective date of such appointment.

1
2

1 Section 15.16 Additional Provisions Regarding the Trustee.

2
3 The Trustee, prior to the occurrence of an Event of Default and after the curing of all
4 Events of Default which may have occurred, undertakes to perform such duties and only such
5 duties as are specifically set forth in this Bond Ordinance, and no implied covenants or
6 obligations should be read into this Bond Ordinance against the Trustee. If any Event of Default
7 under this Bond Ordinance shall have occurred and be continuing, the Trustee shall exercise
8 such of the rights and powers vested in it by this Bond Ordinance and shall use the same degree
9 of care as a prudent person would exercise or use in the circumstances in the conduct of such
10 prudent person's own affairs.

11
12 The Trustee agrees to perform the trust functions provided herein upon and subject to
13 the following expressed terms and conditions:

14
15 (A) The Trustee may execute any of the trusts or powers hereof and perform
16 any of its duties by or through attorneys, agents or receivers appointed with due care.

17
18 (B) The permissive items assigned to the Trustee as enumerated herein shall
19 not be construed as a duty.

20
21 (C) The Trustee shall not be accountable for the use or application by the
22 City of any money paid over by the Trustee in accordance with the provisions of this
23 Bond Ordinance.

24
25 (D) Before taking any action under this Bond Ordinance relating to an Event
26 of Default or in connection with its duties under this Bond Ordinance other than making
27 payments of principal and interest on the Bonds as they become due or causing an
28 acceleration of the Bonds whenever required by this Bond Ordinance, the Trustee may
29 require that a satisfactory indemnity bond be furnished for the reimbursement of all
30 costs and expenses to which it may be put (including legal fees, costs and expenses)
31 and to protect it against all liability, including, but not limited to, any liability arising
32 directly or indirectly under any federal, state or local statute, rule, law or ordinance
33 related to the protection of the environment or hazardous substances and except
34 liability which is adjudicated to have resulted from its own negligence or willful
35 misconduct in connection with any action so taken.

36
37 (E) The Trustee shall have no responsibility with respect to any information,
38 statement or recital in any official statement, offering memorandum or any other
39 disclosure material, including continuing disclosure material, prepared or distributed
40 with respect to the Bonds and shall have no responsibility for compliance with any state
41 or federal securities laws in connection with the Bonds.

42
43 (F) None of the provisions of this Bond Ordinance shall require the Trustee
44 to expend or risk its own funds or otherwise to incur any liability, financial or otherwise,
45 in the performance of any of its duties hereunder, or in the exercise of any of its rights
46 or powers if it shall have reasonable grounds for believing that repayment of such funds
47 cannot be assured to the Trustee's satisfaction.

48
49 (G) So long as investments are made in Authorized Investments, the Trustee
50 may conclusively rely upon the City's written instructions as to both the suitability and

1 legality of all investments directed hereunder. To the extent invested in Authorized
2 Investments, the Trustee shall have no responsibility to monitor the ratings of
3 investments after the initial purchase of such investments. The Trustee may make any
4 and all such investments through its own investment department or that of its affiliates
5 or subsidiaries, and may charge reasonable fees for such trades, including cash sweep
6 accounts. Notwithstanding anything to the contrary herein, in the absence of written
7 investment instructions from the City, the Trustee shall not be responsible or liable for
8 keeping moneys held by it hereunder fully invested. While invested in Authorized
9 Investments, the Trustee shall not be liable for any losses or diminution in value from
10 such investments executed pursuant to a written direction of the City. Broker
11 confirmations of investments are not required to be issued by the Trustee for each
12 month in which a monthly statement is rendered.

13
14 (H) The Trustee shall have no duty to review or analyze any financial
15 statements delivered to it hereunder (including the audit required by Section 9.02
16 hereof) or verify the accuracy thereof and shall hold such financial statements solely
17 as a repository for the benefit of the Bondholders; the Trustee shall not be deemed to
18 have notice of any information contained therein or Event of Default which may be
19 disclosed therein.

20
21 (I) The City shall pay to the Trustee reasonable compensation for all services
22 performed by it hereunder and also its reasonable expenses, charges and other
23 disbursements and the fees, costs, and expenses of its attorneys, agents and employees
24 incurred in and about the administration and the performance of its powers and duties
25 hereunder. If the Trustee is required by governmental agency or court proceeding
26 initiated by a third party to undertake efforts beyond that which is set forth herein but
27 related thereto, the Trustee shall notify the City of same in writing. Payment for such
28 extraordinary fees, costs and expenses (including but not limited to reasonable
29 attorney's fees, costs and expenses) shall be made promptly by the City only after said
30 notice.

31
32 (J) The Trustee shall not be responsible or liable for any failure or delay in
33 the performance of its obligations under this Bond Ordinance arising out of or caused,
34 directly or indirectly, by circumstances beyond its reasonable control, including,
35 without limitation: acts of God; earthquakes; fire; flood; hurricanes or other
36 catastrophic storms; wars; terrorism; similar military disturbances; sabotage;
37 epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, computer
38 (hardware or software) or communications services; labor disputes; acts of civil or
39 military authority or governmental action; it being understood that the Trustee shall
40 use commercially reasonable efforts which are consistent with accepted practices in
41 the banking industry to resume performance as soon as reasonably practicable under
42 the circumstances.

43
44 (K) Upon request from any Bondholder and absent any further direction or
45 consent of the City, the Trustee shall disseminate a copy of the financial statements
46 to such requester.

47
48 (L) Notwithstanding anything to the contrary herein, to the extent that the
49 Trustee is not otherwise acting in the capacity as dissemination agent, the Trustee shall

1 not have any liability to any party in connection with any failure to timely file any
2 notice with the Municipal Securities Rulemaking Board (via its EMMA system).
3

4 (M) The Trustee shall have the right to accept and act upon directions or
5 instructions delivered using Electronic Means; provided, however, that the City shall
6 provide to the Trustee an incumbency certificate listing Qualified Officers with the
7 authority to provide such directions or instructions (each a "**Qualified Officer**") and
8 containing specimen signatures of such Qualified Officers, which incumbency
9 certificate shall be amended whenever a person is to be added or deleted from the
10 listing. If the City elects to give the Trustee directions or instructions using Electronic
11 Means, the Trustee's understanding of such directions or instructions shall be deemed
12 controlling. The City understands and agrees that the Trustee cannot determine the
13 identity of the actual sender of such directions or instructions and that the Trustee
14 shall conclusively presume that directions or instructions that purport to have been
15 sent by an Qualified Officer listed on the incumbency certificate provided to the
16 Trustee have been sent by such Qualified Officer. The City shall be responsible for
17 ensuring that only Qualified Officers transmit such directions or instructions to the
18 Trustee and that all Qualified Officers treat applicable user and authorization codes,
19 passwords and/or authentication keys as confidential and with extreme care. The
20 Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly
21 from the Trustee's reliance upon and compliance with such directions or instructions
22 notwithstanding such directions or instructions conflict or are inconsistent with a
23 subsequent written direction or written instruction. The City agrees: (i) to assume all
24 risks arising out of the use of Electronic Means to submit directions or instructions to
25 the Trustee, including without limitation the risk of the Trustee acting on unauthorized
26 directions or instructions, and the risk of interception and misuse by third parties; (ii)
27 that it is fully informed of the protections and risks associated with the various methods
28 of transmitting directions or instructions to the Trustee and that there may be more
29 secure methods of transmitting directions or instructions and (iii) that the security
30 procedures (if any) to be followed in connection with its transmission of directions or
31 instructions provide to it a commercially reasonable degree of protection in light of its
32 particular needs and circumstances.
33

34 ARTICLE XVI

35 DEFEASANCE

36 Section 16.01 Defeasance Generally.

37
38 Subject to the provisions of an applicable Existing Ordinance or Series Ordinance, if all
39 of the Bonds issued pursuant to this Bond Ordinance and any other amounts required to be paid
40 to a provider of a surety bond, line of credit, insurance policy or letter of credit hereunder
41 shall have been paid and discharged, then the obligations of the City under this Bond Ordinance,
42 the pledge of Revenues made hereby, and all other rights granted hereby shall cease and
43 determine. Subject to the provisions of an applicable Existing Ordinance or Series Ordinance,
44 Bonds shall be deemed to have been paid and discharged within the meaning of this Article
45 under each of the following circumstances:
46
47

48 (A) The Trustee shall hold, at the stated maturities of such Bonds, in trust
49 and irrevocably appropriated thereto, sufficient money for the payment thereof.
50

1
2 (B) If default in the payment of the principal of such Bonds or the interest
3 thereon shall have occurred and thereafter tender of such payment shall have been
4 made, and the Trustee shall then hold in trust and irrevocably appropriated thereto,
5 sufficient money for the payment thereof to the date of the tender of such payment.
6

7 (C) If the City shall have deposited with the Trustee, or any other bank or
8 trust company which would otherwise meet the chartering and capital and surplus
9 requirements contained in Section 15.09(A) hereof (after properly establishing an
10 escrow account therefor), in irrevocable trust money or Defeasance Obligations, the
11 principal of and interest on which when due (without reinvestment thereof) will, as
12 certified in a verification report provided by an independent entity providing such
13 services and selected by the City, provide money which, together with the money,
14 if any, deposited at the same time, shall be sufficient to pay, when due, the
15 principal, interest and redemption premium, if any, due and to become due on and
16 prior to the maturity, or, if the City has irrevocably elected to redeem Bonds, on
17 and prior to the redemption date, of such Bonds.
18

19 Section 16.02 Money to be Held in Trust—When Returnable to the City.
20

21 Any money which at any time shall be deposited with the Trustee or other escrow holder
22 authorized under Section 16.01(C), by or on behalf of the City, for the purpose of paying and
23 discharging any Bonds or the interest thereon, shall be and is hereby assigned, transferred and
24 set over to the Trustee or such other escrow holder in trust for the respective Holders of the
25 Bonds, and such money shall be and is hereby irrevocably appropriated to the payment and
26 discharge thereof. But if, through lapse of time or otherwise, the Holders of said Bonds shall
27 no longer be entitled to enforce payment of their obligations, then, in such event, it shall be
28 the duty of the Trustee or such other escrow holder to forthwith return said funds to the City.
29

30 Section 16.03 Deposits with Trustee Subject to Conditions of Article XVI.
31

32 The City covenants and agrees that any money which it shall deposit with the Trustee
33 shall be deemed to be deposited in accordance with, and subject to, the applicable provisions
34 of this Article, and that whenever it shall have elected to redeem Bonds it will irrevocably bind
35 and obligate itself to give notice of redemption thereof, and will further authorize, empower
36 and direct the Trustee to cause the publication of such notice of redemption in its name and
37 on its behalf.
38

39 Section 16.04 No Defeasance of Series of Bonds Paid by Insurer.
40

41 In the event that the principal and/or interest due on a Series of Bonds shall be paid by
42 an Insurer pursuant to a Municipal Bond Insurance Policy, such Series of Bonds shall remain
43 Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid
44 by the City until the Insurer has been reimbursed in full therefor in accordance with the terms
45 of the Municipal Bond Insurance Policy, and the assignment and pledge of the Revenues of the
46 System and all covenants, agreements and other obligations of the City to the registered
47 Holders shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall
48 be subrogated to the rights of such registered Holders.
49

50 **ARTICLE XVII**

1
2 MISCELLANEOUS
3

4 Section 17.01 Miscellaneous Rights of an Insurer.
5

6 (A) Notwithstanding any provision of this Bond Ordinance to
7 the contrary, each Insurer shall be deemed the exclusive Holder of all
8 Bonds insured by that Insurer, for the purposes of all approvals, consents,
9 waivers, institution of any action, and the direction of all remedies. No
10 rights granted to an Insurer by this Bond Ordinance shall be effective at
11 any time that such Insurer is in breach of its obligations under the
12 Municipal Bond Insurance Policy, has committed a default under the
13 Municipal Bond Insurance Policy, or is subject to bankruptcy or
14 receivership proceedings.
15

16 (B) Any provision of this Bond Ordinance expressly recognizing
17 or granting rights in or to an Insurer may not be amended in any manner
18 which affects the rights of such Insurer hereunder without the prior
19 written consent of each such Insurer.
20

21 (C) To the extent that an Insurer makes payment of the
22 principal of or interest on any Bonds, it shall become the owner and
23 Holder of such Bonds, appurtenant coupons or right to payment of such
24 principal of or interest on such Bonds and shall be fully subrogated to all
25 of the registered Holders' rights thereunder, including the registered
26 Holders' rights to payment thereof. To evidence such subrogation (i) in
27 the case of subrogation as to claims for past due interest, the Trustee
28 shall note Insurer's rights as subrogee on the registration books of the
29 City maintained by the Trustee or Registrar upon receipt of proof from
30 the Insurer as to payment of interest thereon to the registered Holders of
31 the Bonds, and (ii) in the case of subrogation as to claims for past due
32 principal, the Trustee shall note the Insurer's rights as subrogee on the
33 registration books of the City maintained by the Trustee or Registrar upon
34 surrender of the Bonds by the registered Holders thereof to the Insurer
35 or its agent.
36

37 (D) In the event that the principal of and/or interest on any
38 Bonds shall be paid by the Insurer pursuant to the terms of its Municipal
39 Bond Insurance Policy, (i) such Bonds shall continue to be "Outstanding"
40 under this Bond Ordinance and (ii) the assignment and pledge of the
41 Revenues and all covenants, agreements and other obligations of the City
42 to the registered Holders shall continue to exist, and the Insurer shall be
43 fully subrogated to all of the rights of such registered Holders in
44 accordance with the terms and conditions of subparagraph (C) above and
45 the Insurer's Municipal Bond Insurance Policy.
46

47 (E) The terms and provisions of this Bond Ordinance or of any
48 applicable Series Ordinance may not be terminated as long as there are
49 any moneys owed to an Insurer under such terms and provisions of this

Bond Ordinance or the applicable Series Ordinance or any agreement between such Insurer and the City.

Section 17.02 Purpose of Covenants in Bond Ordinance.

Every covenant, undertaking and agreement made on behalf of the City, as set forth in this Bond Ordinance and any Series Ordinance is made, undertaken and agreed to, for the proper securing of the payment of the principal of and interest on the Bonds. Each shall be deemed to partake of the obligation of the contract between the City and the Bondholders and shall be enforceable accordingly. In this connection, any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.04(D) hereof may enforce the terms, conditions and obligations under this Bond Ordinance as a third-party beneficiary hereunder. Nothing in this Bond Ordinance or any Series Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, an Insurer, the Trustee, and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Bond Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Bond Ordinance or a related Series Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, an Insurer, the Trustee, and the registered owners of the Bonds.

Section 17.03 Severability.

If any Section, paragraph, clause or provision of this Bond Ordinance shall be held invalid, the invalidity of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 17.04 Remedies Granted by Ordinance Not Being Available to Holders of Other Bonds.

If it shall be held by any court of competent jurisdiction that any right or remedy granted by the Bond Ordinance or any Series Ordinance to the Holders of any Bond is not available to the Holders of all other Bonds, then such rights and remedies are herewith conferred upon the Holders of such other Bonds.

Section 17.05 Authorization to Sign.

For purposes of all consents and other necessary documentation associated with the issuance of Bonds, the Authorized Officers and the Clerk shall be authorized to sign on behalf of the City.

Section 17.06 Repealing Clause.

All ordinances or resolutions, or parts thereof, inconsistent herewith shall be and the same are hereby repealed to the extent of such inconsistencies.

Section 17.07 Governing Law.

The provisions of this Bond Ordinance shall be governed by the laws of the State, without regard to conflict of law principles.

1 Section 17.08 Date Effective.

2
3 The provisions of this Bond Ordinance shall become effective as of enactment.

4
5
6 [Signature page to follow]
7
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MAYOR

Attest:

1st Reading: October 10, 2023
2nd Reading & Enactment: October 24, 2023