

**Anderson Common Council
ORDINANCE NO. 43-22**

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF ANDERSON AUTHORIZING THE ACQUISITION OF, AND THE CONSTRUCTION OF, CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE WATERWORKS SYSTEM OF THE CITY, THE ISSUANCE OF REVENUE BONDS TO PROVIDE THE COST THEREOF, THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SUCH SYSTEM, THE SAFEGUARDING OF THE INTERESTS OF THE OWNERS OF SUCH REVENUE BONDS AND OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES IN ANTICIPATION OF SUCH BONDS, AND REPEALING ORDINANCES INCONSISTENT HEREWITH.

WHEREAS, the City of Anderson, Indiana (the “City”) has heretofore established, constructed and financed a municipal waterworks system for the purpose of providing for the collection, treatment and delivery of water in the City (the “System”) and now owns and operates the System pursuant to Indiana Code 8-1.5, as in effect on the issue date of the bond anticipation notes or the bonds, as applicable, which are authorized herein (the “Act”) (all references herein to the Indiana Code are designated hereafter as “IC” followed by the applicable code section or sections); and

WHEREAS, the System is subject to the authority and regulation of the Indiana Utility Regulatory Commission (“IURC”) and prior to the issuance of the herein authorized Bonds (as hereinafter defined), the City will have received the approval of the IURC to issue such Bonds for the purposes as herein described; and

WHEREAS, the Common Council of the City (the “Common Council”) finds: (i) that the acquisition of, and the construction of, certain improvements and extensions to, the System, including, without limitation, (a) the acquisition, construction and installation of new water mains and lines for the purpose of expanding the System and replacing aging or undersized water lines, (b) the maintenance and replacement of water wells, (c) the rehabilitation, replacement, and/or construction of water treatment plants, (d) the maintenance of elevated storage tanks, (e) the acquisition and installation of equipment appurtenant thereto, (f) the acquisition of real estate appurtenant to the construction of certain improvements and extensions to the System, and (g) the making of other site improvements related thereto (collectively, the “Project”), are necessary; (ii) that a preliminary engineering report and cost estimates for the Project (the “Engineering Report”) have been prepared by Robert E. Curry & Associates, Inc., of Danville, Indiana (the “Engineer”), the engineer employed by the City for the acquisition and construction of the Project, and (iii) that the Engineering Report has been or will be submitted to all government authorities having jurisdiction, and has been or will be approved by the aforesaid government authorities; and

WHEREAS, the City will advertise for and receive bids for the construction of the Project, and such bids will be subject to the Common Council’s determination to acquire and construct the Project and the City obtaining funds for the Project; and

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WHEREAS, on the basis of the Engineer's estimate, the cost of the Project, including incidental expenses, is in the amount of approximately Sixty-Five Million Five Hundred Thousand Dollars (\$65,500,000); and

WHEREAS, the Common Council finds that the City intends on applying American Rescue Plan funds ("ARP Funds") and tax increment revenues ("TIF") available to the City in the combined total amount of Seventeen Million Five Hundred Thousand Dollars (\$17,500,000) for costs of the Project, and that the remaining cost of the Project is to be financed by the issuance of its waterworks revenue bonds in one or more series from time to time in an aggregate principal amount not to exceed Forty-Eight Million Dollars (\$48,000,000) (the "Bonds") and, if necessary, its bond anticipation notes (the "BANs"); and

WHEREAS, the Common Council finds that there are outstanding bonds payable out of the Net Revenues (as hereinafter defined) of the System, designated as the (i) City of Anderson, Indiana Waterworks Revenue Bonds, Series 2016, dated May 25, 2016 (the "2016 Bonds"), now outstanding in the aggregate principal amount of Ten Million Seven Hundred Twenty-Five Thousand Dollars (\$10,725,000) and maturing annually on January 1 over a period ending January 1, 2036, and (ii) City of Anderson, Indiana Waterworks Refunding Revenue Bonds, Series 2016, dated July 27, 2016 (the "2016 Refunding Bonds"), now outstanding in the aggregate principal amount of One Million Seven Hundred Forty Thousand Dollars (\$1,740,000) and maturing annually on January 1 over a period ending January 1, 2027, which 2016 Bonds and 2016 Refunding Bonds (collectively, the "Outstanding Parity Bonds") constitute a first charge on the Net Revenues of the System; and

WHEREAS, the ordinances authorizing the issuance of the Outstanding Parity Bonds permit the issuance of additional bonds ranking on a parity with the Outstanding Parity Bonds provided certain conditions can be met, and the City finds that the finances of the System will enable the City to meet the conditions for the issuance of additional parity bonds and that, accordingly, the Bonds authorized herein shall rank on a parity with the Outstanding Parity Bonds; and

WHEREAS, the Bonds to be issued pursuant to this ordinance will constitute a first charge against the Net Revenues of the System, on a parity with the payment of the Outstanding Parity Bonds, and are to be issued subject to the provisions of the laws of the Act and the terms and restrictions of this ordinance; and

WHEREAS, other than the Outstanding Parity Bonds, there are no other outstanding bonds of the System or any other obligation payable out of the Net Revenues; and

WHEREAS, the City desires to authorize the issuance of BANs hereunder, if necessary, payable solely from the proceeds of the Bonds issued hereunder, and, with respect to interest only, proceeds of the BANs allocable to capitalized interest and/or Net Revenues of the System, junior and subordinate to the Outstanding Parity Bonds, any Bond herein authorized, and any additional

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bonds issued pursuant to Section 18 hereof, and to authorize the refunding of said BANs, if issued; and

WHEREAS, the Common Council has been advised by the City’s municipal advisor that it may be economically efficient to acquire a municipal bond insurance policy and/or debt service reserve surety for the Bonds hereby authorized; and

WHEREAS, if the Bonds or BANs herein authorized are sold to the Indiana Finance Authority (the “Authority”) as part of its drinking water revolving loan program, supplemental drinking water and wastewater assistance program, water infrastructure assistance program and/or water infrastructure grant program, established and existing pursuant to IC 5-1.2-1 through IC 5-1.2-4, IC 5-1.2-10, IC 5-1.2-11, IC 5-1.2-14 and/or IC 5-1.2-14.5 (collectively, the “IFA Program”), the City will enter into a Financial Assistance Agreement, Funding Agreement, Grant Agreement and/or Financial Aid Agreement (substantially in the form attached as Exhibit A hereto and made a part hereof) together with any subsequent amendments thereto (collectively, the “Financial Assistance Agreement”) with the Authority pertaining to the Project and the financing thereof; and

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

WHEREAS, the Common Council understands that for the Project to be permitted to be financed under the IFA Program, the City must (a) agree to own, operate and maintain the System and the Project for their useful life and (b) represent and warrant to the Authority that the City has no intent to sell, transfer or lease the System or the Project for their useful life; and

WHEREAS, it is anticipated that the City will advance all or a portion of the costs of the Project prior to the issuance of the BANs or the Bonds, with such advance to be repaid from proceeds of the BANs or the Bonds upon the issuance thereof; and

WHEREAS, Section 1.150-2 of the Treasury Regulations on Income Tax (the “Reimbursement Regulations”) specifies conditions under which a reimbursement allocation may be treated as an expenditure of Bond proceeds, and the City intends by this ordinance to qualify amounts advanced by the City to the Project for reimbursement from proceeds of the BANs or the Bonds in accordance with the requirements of the Reimbursement Regulations; and

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

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

Sec. 1. Authorization of Project.

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(a) The City shall proceed with the completion of the Project in accordance with the Engineering Report. The aggregate cost of the Project shall not exceed the sum of Sixty-Five Million Five Hundred Thousand Dollars (\$65,500,000), plus investment earnings on the proceeds of the BANs and the Bonds. The terms “waterworks,” “waterworks system,” “works,” “System,” and words of like import where used in this ordinance shall be construed to mean and include the existing waterworks system of the City (and its Drinking Water System as defined in the Financial Assistance Agreement, if applicable), and all real estate and equipment used in connection therewith and appurtenances thereto, and all extensions, additions and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired. If the Bonds herein authorized will be sold to the IFA Program, such terms shall also be construed to mean the Drinking Water System, as defined in the Financial Assistance Agreement to be entered into, in such case, between the City and the Authority through the IFA Program. The Project shall be constructed in accordance with the plans and specifications heretofore mentioned, which Project and plans and specifications are hereby approved. The Project shall be constructed and the BANs and Bonds herein authorized shall be issued pursuant to and in accordance with the Act.

(b) In the event the Bonds herein authorized or the BANs are purchased by the Authority as part of the IFA Program, on behalf of the City, the Common Council hereby (i) agrees to own, operate and maintain the System and the Project for their useful life and (ii) represents and warrants to the Authority that the City has no intent to sell, transfer or lease the System or the Project for their useful life.

Sec. 2. Issuance of BANs and Bonds.

(a) The City shall issue, if necessary, the BANs for the purpose of procuring interim financing to pay the costs of the Project, capitalized interest, if any, and if deemed appropriate, the costs of issuance of the BANs. The City may issue the BANs in one or more series, in an aggregate amount outstanding at any one time not to exceed Forty-Eight Million Dollars (\$48,000,000) to be designated “Waterworks Bond Anticipation Notes, Series 202__,” to be completed with the appropriate year of issuance and an alphabetical designation, if necessary. The BANs shall be lettered and numbered consecutively from R-1 and upward, and shall be in authorized denominations of (i) \$5,000 or integral multiples thereof or (ii) \$100,000 and any \$5,000 integral multiple in excess thereof, as determined by the Controller of the City (the “Controller”), with the advice of Crowe LLP, the municipal advisor to the City (the “Municipal Advisor”). The BANs shall be dated as of the date of delivery thereof and shall bear interest at a rate not to exceed 7.0% per annum (the exact rate or rates to be determined through negotiations) payable either upon maturity or redemption. Further, the BANs shall be sold at not less than 99% of their par value. Each series of BANs will mature no later than five (5) years after their date of delivery, unless determined otherwise by the Controller, with the advice of the Municipal Advisor and Bose McKinney & Evans LLP, bond counsel to the City (“Bond Counsel”). The BANs are subject to renewal or extension at an interest rate or rates not to exceed 7.0% per annum (the exact rate or rates to be negotiated with the purchaser of the BANs). The term of the BANs and all renewal

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BANs may not exceed five (5) years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof.

(b) The BANs shall be issued pursuant to IC 5-1.2-1 through IC 5-1.2-4, IC 5-1.2-10, IC 5-1.2.11, IC 5-1.2-14 and/or IC 5-1.2-14.5 if sold to the Authority, or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The City shall pledge to the payment of the principal of and interest on the BANs the proceeds from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act.

(c) Interest on the BANs may, as determined by the Controller, with the advice of the City's municipal advisor, also be payable from capitalized interest and/or Net Revenues of the System. Interest on the BANs shall be calculated according to a 360-day calendar year containing twelve 30-day months. Any pledge of Net Revenues of the System to the payment of interest on the BANs shall be junior and subordinate to the payment of the Outstanding Parity Bonds, any Bonds issued pursuant to this ordinance and any additional parity bonds issued in the future pursuant to Section 18 of this ordinance (the "Parity Bonds"). The BANs shall rank on a parity with respect to the pledge of Net Revenues of the System in the event more than one (1) series of BANs is outstanding and secured, with respect to the payment of interest thereon, by the Net Revenues of the System.

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

(e) The City shall issue the Bonds, in one or more series, in an aggregate principal amount not to exceed Forty-Eight Million Dollars (\$48,000,000) to be designated "Waterworks Revenue Bonds, Series 202__," to be completed with the year in which the Bonds are issued and an alphabetical designation, if necessary, purpose of procuring funds to apply on the costs of the Project, capitalized interest, if any, refunding the BANs, if issued, funding a reserve, if necessary, and costs of issuance of the Bonds, including the purchase, if necessary, of a municipal bond insurance policy and/or debt service reserve surety. Each series of Bonds shall rank on a parity with the other series, including the Outstanding Parity Bonds, for all purposes, including the pledge of Net Revenues under this ordinance.

(f) The Bonds shall be issued and sold at a price not less than 99.0% of the par value thereof. The Bonds shall be issued in fully registered form in denominations of (i) Five Thousand Dollars (\$5,000) or integral multiples thereof; (ii) One Dollar (\$1) or integral multiples thereof, if the Bonds are sold to the Authority through the IFA Program or (iii) One Hundred Thousand Dollars (\$100,000), plus any integral multiple of One Thousand Dollars (\$1,000) in excess thereof, or the aggregate principal amount of such Bonds maturing in any year if less than One Million Dollars (\$1,000,000), if sold through a private placement. The Bonds shall be numbered consecutively from 1 up and shall be originally dated as of their date of delivery. The Bonds shall bear interest at a rate or rates not exceeding 7.0% per annum (the exact rate or rates to be

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determined by bidding or through negotiation, as applicable). The interest on the Bonds shall be payable semiannually on January 1 and July 1 in each year, commencing on either the first January 1 or the first July 1 following the date of delivery of the Bonds, as selected by the Controller, with the advice of the Municipal Advisor. The principal of the Bonds shall be payable in lawful money of the United States of America at the principal office of the Paying Agent (as hereinafter defined). The Bonds shall mature annually on January 1 of each year, or be subject to mandatory sinking fund redemption on January 1 of each year, over a period ending no later than thirty-five (35) years from the date of issuance of the Bonds. The Bonds shall mature in such amounts that will (i) produce as level annual debt service as practicable taking into account the denominations of the Bonds, (ii) if the Bonds will be sold to the IFA Program, enable the City to meet the requirements of the IFA Program (in such case, the debt service schedule shall be finalized and set forth in the Financial Assistance Agreement) or (iii) otherwise enable the City to meet the financial objectives for the System, as determined by the Controller with the advice of the Municipal Advisor.

(g) All or a portion of the Bonds may be issued as one or more term bonds, upon election of the purchaser. Such term bonds shall have a stated maturity or maturities consistent with the maturity schedule determined in accordance with the preceding paragraph, on the dates as determined by the purchaser, but in no event later than the last serial maturity date of the Bonds as determined in the preceding paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates which are hereafter determined in accordance with the preceding paragraph.

(h) The Bonds will be payable solely out of and constitute a first charge against the Net Revenues (herein defined as gross revenues of the System remaining after the payment of the reasonable expenses of operation, repair and maintenance) of the System, on parity with the Outstanding Parity Bonds. In the event the Bonds are sold to the Authority through the IFA Program, the definition of Net Revenues as set forth above shall be modified such that Net Revenues means gross revenues of the System, inclusive of System Development Charges (as hereafter defined), remaining after the payment of the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes, of the System. For purposes of this ordinance, "System Development Charges" shall mean, and shall only be applicable if the Bonds are sold to the Authority through the IFA Program, the proceeds and balances from any non-recurring charges such as tap fees, subsequent connector fees, capacity or contribution fees, and other similar one-time charges that are available for deposit under this ordinance.

(i) Notwithstanding anything contained herein, the City may accept any other forms of financial assistance, as and if available, from the IFA Program (including without limitation any forgivable loans, grants or other assistance) whether available as an alternative to any Bond or BAN related provision otherwise provided for herein or as a supplement or addition thereto. If required by the IFA Program to be eligible for such financial assistance, one or more of the series of the Bonds issued hereunder may be issued on a basis such that the payment of the principal of or interest on (or both) such series of Bonds is junior and subordinate to the payment of the

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principal of and interest on other series of Bonds issued hereunder (and/or any other revenue bonds secured by a pledge of Net Revenues, whether now outstanding or hereafter issued), all as provided by the terms of such series of Bonds as modified pursuant to this authorization. Such financial assistance, if any, shall be provided in the Financial Assistance Agreement and the Bonds of each series of Bonds issued hereunder (including any modification made pursuant to the authorization in this paragraph to the form of Bonds otherwise contained herein).

(j) The Controller, is hereby authorized to select and appoint a qualified financial institution to serve as Registrar and Paying Agent for the Bonds and the BANs, which Registrar is hereby charged with the responsibility of authenticating the Bonds (the “Registrar” or “Paying Agent”). The Controller is hereby authorized to enter into such agreements or understandings with such institution as will enable the institution to perform the services required of a Registrar and Paying Agent. The Controller is further authorized to pay such fees as the institution may charge for the services it provides as Registrar and Paying Agent, and such fees may be paid from the Sinking Fund (as hereinafter defined) established to pay the principal of and interest on the Bonds as fiscal agency charges. As to the BANs and as to the Bonds, if sold to a purchaser that does not object to such designation, the Controller may serve as Registrar and Paying Agent and is, in such case, hereby charged with the duties of a Registrar and Paying Agent.

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

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

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

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

(o) Interest on Bonds sold to the Authority through the IFA Program shall be paid from the date or dates which are set forth in the Financial Assistance Agreement. Interest on all other Bonds which are authenticated on or before the Record Date which precedes the first interest payment date shall be paid from their original date. Interest on Bonds authenticated subsequent to the Record Date which precedes the first interest payment date thereon shall be paid from the interest payment date to which interest has been paid as of the date on which such Bonds are authenticated, unless a Bond is authenticated between the Record Date and the interest payment date in which case the interest shall be paid from such interest payment date.

Sec. 3. Redemption of BANs and Bonds.

(a) If deemed appropriate by the Controller, with the advice of the Municipal Advisor, the BANs shall be pre-payable by the City, in whole or in part, on or after the date determined to be most appropriate by the Controller, with the advice of the Municipal Advisor, upon 20 days' notice to the owner of the BANs, without any premium, but with accrued interest to the date of prepayment.

(b) The Bonds are redeemable at the option of the City. If the Bonds are sold to the Authority through the IFA Program, the Bonds are redeemable at the option of the City no sooner than ten (10) years after their date of delivery, or any date thereafter, on sixty (60) days' notice, in whole or in part, in inverse order of maturity, and by lot within a maturity, at face value together with a premium no greater than 2%, plus accrued interest to the date fixed for redemption; provided, however, if the Bonds are sold to the IFA Program and registered in the name of the Authority, the Bonds shall not be redeemable at the option of the City unless and until consented to by the Authority. If the Bonds are sold to a purchaser other than the Authority through the IFA Program, the Bonds are redeemable no sooner than such date as shall be determined by the Controller, prior to the sale of the Bonds, with the advice of the Municipal Advisor, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City, and by lot within a maturity, at face value with no premium, plus accrued interest to the date fixed for redemption. The exact redemption dates and premiums shall be established by the Controller, with the advice of the Municipal Advisor, prior to the sale of the Bonds.

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

(d) Each authorized denomination amount shall be considered a separate Bond for purposes of optional and mandatory redemption. If less than an entire maturity is called for redemption, the Bonds to be called for redemption shall be selected by lot by the Registrar. If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.

(e) In either case, notice of redemption shall be given not less than sixty (60) days, if the Bonds are sold to the Authority through the IFA Program, and thirty (30) days if the Bonds are sold to another purchaser, prior to the date fixed for redemption unless such redemption notice is waived by the owner of the Bond or Bonds redeemed. Such notice shall be mailed to the address of the registered owner as shown on the registration record of the City as of the date which is sixty-five (65) days if the Bonds are sold to the Authority through the IFA Program, and forty-five (45) days if the Bonds are sold to another purchaser, prior to such redemption date. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption may be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

Sec. 4. Execution and Authentication of the BANs and the Bonds; Pledge of Net Revenues to the Bonds.

(a) The BANs and Bonds shall be signed in the name of the City by the manual or facsimile signature of the Mayor of the City (the “Mayor”), countersigned by the manual or facsimile signature of the Controller and attested by the manual or facsimile signature of the Clerk of the City (the “Clerk”), who shall affix the seal of said City to each of said Bonds and BANs manually or shall have the seal imprinted or impressed thereon by facsimile. These officials, by the signing of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures their facsimile signatures appearing on said Bonds and BANs. In case any officer whose signature or facsimile signature appears on the Bonds or BANs shall cease to be such officer before

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the delivery of the Bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The Bonds shall also be authenticated by the manual signature of an authorized representative of the Registrar and no Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

(b) The Bonds, and any bonds ranking on a parity therewith, as to both principal and interest, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon the Net Revenues of the System, on a parity with the Outstanding Parity Bonds. The City shall not be obligated to pay said Bonds or the interest thereon except from the Net Revenues of said System, and said Bonds shall not constitute an indebtedness of the City within the meaning of the provisions and limitations of the constitution of the State of Indiana. Said Bonds and BANs shall have all of the qualities of negotiable instruments under the laws of the State of Indiana subject to the provisions for registration herein.

Sec. 5. Book-Entry Provisions.

(a) The City may, upon the advice of its municipal advisor, have the Bonds held by a central depository system pursuant to an agreement between the City and The Depository Trust Company, New York, New York (the "DTC") and have transfers of the Bonds effected by book-entry on the books of the central depository system. In such case, the Bonds shall be issued in the name of Cede & Co., as nominee for DTC, as registered owner of the Bonds, and held in the custody of DTC and the terms and conditions of this Section 5 shall apply.

(b) If the Bonds are held by DTC, a single certificate will be issued and delivered to DTC for each maturity of the Bonds. The actual purchasers of the Bonds ("Beneficial Owners") will not receive physical delivery of the Bond certificates except as provided herein. Beneficial Owners are expected to receive a written confirmation of their purchase providing details of each Bond acquired. For so long as DTC shall continue to serve as securities depository for the Bonds as provided herein, all transfers of beneficial ownership interests will be made by book-entry only, and no investor or other party purchasing, selling or otherwise transferring beneficial ownership of the Bonds is to receive, hold, or deliver any Bond certificate.

(c) For every transfer and exchange of the Bonds, the Beneficial Owner may be charged a sum sufficient to cover such Beneficial Owner's allocable share of any tax, fee, or other governmental charge that may be imposed in relation thereto. Bond certificates are required to be delivered to and registered in the name of the Beneficial Owner, under the following circumstances:

(i) DTC determines to discontinue providing its service with respect to the Bonds (such a determination may be made at any time by giving thirty (30) days' notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law), or

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(ii) the City determines that continuation of the system of book-entry transfers through DTC (or a successor securities depository) is not in the best interests of the Beneficial Owners.

(d) The City and the Registrar will recognize DTC or its nominee as the holder of the Bonds for all purposes, including notices and voting. The City and the Registrar covenant and agree, so long as DTC shall continue to serve as securities depository for the Bonds, to meet the requirements of DTC with respect to required notices and other provisions of a Letter of Representations between the City and DTC. If necessary to comply with the terms and provisions of the Letter of Representations, a supplemental ordinance shall be adopted to amend this ordinance as necessary.

(e) The Registrar is authorized to rely conclusively upon a certificate furnished by DTC and corresponding certificates from DTC participants and indirect participants as to the identity of, and the respective principal amount of Bonds beneficially owned by, the Beneficial Owner or Beneficial Owners.

(f) The City may, upon the advice of its Municipal Advisor, have the BANs held in the custody of DTC. In such case, the aforementioned terms and conditions of this Section 5 shall apply to the BANs.

Sec. 6. Form of Bonds.

The form and tenor of the Bonds shall be substantially as follows, all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery thereof:

Form of Bond

[Unless this Bond is presented by an authorized representative of The Depository Trust Company to the Registrar or its agent for registration or transfer, exchange or payment, and any bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.]

No. _____

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF MADISON

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CITY OF ANDERSON
WATERWORKS REVENUE BOND, SERIES 202_[_]

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

Registered Owner:

Principal Sum:

The City of Anderson (the “City”), in Madison County, State of Indiana, for value received, hereby promises to pay to the Registered Owner (named above) or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above[, or so much thereof as may be advanced from time to time and be outstanding as evidenced by the records of the registered owner making payment for this Bond, or its assigns,] on [the Maturity Date set forth above] or [January 1 in the years and in the amounts as set forth on Exhibit A attached hereto] (unless this Bond be subject to and shall have been duly called for redemption and payment as provided for herein), and to pay interest hereon until the Principal Sum shall be fully paid at the rate per annum specified above from [the dates of payment made on this Bond] or [the interest payment date to which interest has been paid next preceding the Authentication Date of this Bond unless this Bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case it shall bear interest from such interest payment date, or unless this Bond is authenticated on or before _____ 15, 202_, in which case it shall bear interest from the Original Date], which interest is payable semiannually on the first day of January and July of each year, beginning on _____ 1, 202_. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

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

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which on the dates of such payment, shall be legal tender for the payment of public and private debts.

This Bond shall not constitute an indebtedness of the City of Anderson, Indiana, within the meaning of the provisions and limitations of the constitution of the State of Indiana, and the City shall not be obligated to pay this Bond or the interest hereon except from the sinking fund provided from the Net Revenues.

This Bond is [the only] one of an authorized issue of Bonds of the City of Anderson, Indiana, [of like tenor and effect, except as to numbering, interest rate, and dates of maturity,] in the total amount of _____ Dollars (\$____) [for this series] (the “Bonds”), numbered from 1 up, issued for the purpose of providing funds to be applied on the cost of the construction of additions and improvements to the City’s waterworks, [to refund interim notes issued in anticipation of the Bonds][capitalized interest] and to pay costs of issuance of the Bonds, as authorized by an Ordinance adopted by the Common Council of the City of Anderson, Indiana, on the ___ day of _____, 2022, entitled “An Ordinance of the Common Council of the City of Anderson authorizing the acquisition of, and the construction of, certain improvements and extensions to the waterworks system of the City, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of such system, the safeguarding of the interests of the owners of such revenue bonds and other matters connected therewith, including the issuance of notes in anticipation of such bonds, and repealing ordinances inconsistent herewith” (the “Ordinance”), and in strict compliance with the provisions of Indiana Code 8-1.5, as in effect on the issue date of the Bonds (the “Act”).

[Reference is hereby made to the Financial Assistance Agreement between the City and the Indiana Finance Authority as to certain terms and covenants pertaining to the waterworks project and this Bond (the “Financial Assistance Agreement”).]

[The Bonds shall be initially issued in a book entry system by The Depository Trust Company (“DTC”). The provisions of this Bond and of the Ordinance are subject in all respect to the provisions of the Letter of Representations between the City and DTC, or any substitute agreement affecting such book entry system under DTC.]

Pursuant to the provisions of said Act and said Ordinance, the principal and interest of this Bond and all other Bonds of said issue, and any bonds hereafter issued on a parity therewith, are payable solely from the Sinking Fund (continued by the Ordinance) to be provided from the Net Revenues (herein defined as gross revenues of the System (as defined in the Ordinance)[, inclusive of System Development Charges (as defined in the Ordinance),] remaining after the payment of the reasonable expenses of operation, repair and maintenance [excluding transfers for payment in lieu of property taxes]) of the System, including the works authorized under the Ordinance to be acquired and constructed and all additions and improvements thereto and replacements thereof subsequently constructed or acquired. The payment of this Bond ranks on a parity with the payment of the Outstanding Parity Bonds (as defined in the Ordinance). The City reserves the

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right to issue additional bonds on a parity with this Bond and the issue of which it is a part, as provided in the Ordinance.

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

The City further covenants that it will set aside and pay into its Sinking Fund a sufficient amount of the Net Revenues of said works to meet (a) the interest on all bonds which by their terms are payable from the Net Revenues of the System, as such interest shall fall due, (b) the necessary fiscal agency charges for paying the bonds and interest, (c) the principal of all bonds which by their terms are payable from the Net Revenues of the System, as such principal shall fall due, and (d) an additional amount to [create and] maintain the reserve required by the Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues of said System, on a parity with the payment of the Outstanding Parity Bonds.

The Bonds of this issue maturing on January 1, 20__, and thereafter, are redeemable at the option of the City on _____1, 20__, or any date thereafter, on [sixty (60)] [thirty (30)] days' notice, in whole or in part, in [inverse order of maturity] [in the order of maturity as determined by the City] and by lot within a maturity, at face value [together with the following premiums:

_% if redeemed on _____ 1, 20__ or thereafter
on or before _____, 20__;
_% if redeemed on _____1, 20__ or thereafter
on or before _____, 20__;
0% if redeemed on _____1, 20__, or thereafter
prior to maturity;]

plus in each case accrued interest to the date fixed for redemption.

[Notwithstanding the foregoing, the Bonds shall not be redeemable at the option of the City unless and until consented to by the Indiana Finance Authority.]

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

<u>Year</u>	<u>Amount</u>
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*Final Maturity]

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

[In the event the 20__ Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the 20__ Bonds for mandatory sinking fund redemption before selecting the 20__ Bonds by lot for optional redemption.]

Notice of redemption shall be mailed to the address of the registered owner as shown on the registration record of the City, as of the date which is [sixty-five (65)][forty-five (45)] days prior to such redemption date, not less than [sixty (60)][thirty (30)] days prior to the date fixed for redemption. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption may be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice, if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

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

This Bond is transferable or exchangeable only upon the books of the City kept for that purpose at the office of the Registrar, by the registered owner hereof in person, or by its attorney duly authorized in writing, upon surrender of this Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the registered owner, as the case may be, in exchange therefor. The City, the Registrar and any paying agent for this Bond may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for all purposes

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including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

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

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

[A Continuing Disclosure Undertaking Agreement dated as of the Original Issue Date (the "Disclosure Agreement") will be executed by the City, if required, for the benefit of each registered or beneficial owner of any Bond. In such case, a copy of the Disclosure Agreement is available from the City and its terms are incorporated herein by reference. The Disclosure Agreement contains certain covenants of the City to each registered or beneficial owner of any Bond, including a covenant to provide continuing disclosure of certain annual financial information and notices of the occurrence of certain events. By its payment for and acceptance of this Bond, the Registered Owner and any beneficial owner of this Bond assents to the Disclosure Agreement and to the exchange of such payment and acceptance for such covenants.]

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

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

IN WITNESS WHEREOF, the City has caused this Bond to be executed in its corporate name and on its behalf by the manual or facsimile signature of the Mayor of the City, countersigned by the manual or facsimile signature of its Controller, and its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by the Clerk of the City.

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CITY OF ANDERSON, INDIANA

By: _____
Mayor

Countersigned:

By: _____
Controller

[SEAL]

ATTEST:

Clerk

REGISTRAR’S CERTIFICATE OF AUTHENTICATION

It is hereby certified that this Bond is one of the Bonds described in the Ordinance.
as Registrar

By: _____
Authorized Representative

[MUNICIPAL BOND INSURANCE LEGEND]

ASSIGNMENT

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

Dated: _____

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

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

[EXHIBIT A]

End of Bond Form

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Sec. 7. Preparation and Sale of BANs and Bonds; Official Statement; Investment Letter; Rating; Municipal Bond Insurance.

(a) The Controller is hereby authorized and directed to have said BANs and Bonds prepared, and the Mayor, the Controller and the Clerk are hereby authorized and directed to execute said BANs and Bonds in the form and manner herein provided. The Controller is hereby authorized and directed to deliver said BANs and Bonds to the respective purchasers thereof after sale made in accordance with the provisions of this ordinance, provided that at the time of said delivery the Controller shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than 99.0% of the par value of said BANs and not less than 99.0% of the par value of said Bonds, as the case may be. The City may receive payment for the Bonds and BANs in installments. The Bonds herein authorized, as and to the extent paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City, payable out of the Net Revenues of the System to be set aside into the Sinking Fund as herein provided. The proceeds derived from the sale of the Bonds shall be and are hereby set aside for application on the cost of the Project hereinbefore referred to, the refunding of the BANs, if issued, and the expenses necessarily incurred in connection with the BANs and Bonds. The proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

(b) The preparation and distribution of an official statement (preliminary and final) on behalf of the City for the Bonds and BANs sold to a purchaser other than the IFA Program is hereby authorized. The Mayor and Controller are hereby authorized and directed to execute any such preliminary official statement on behalf of the City in a form consistent with this ordinance and are further authorized to designate any such preliminary official statement as “nearly final” for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”).

(c) Alternatively, in lieu of preparing and distributing an official statement, the City may obtain a sophisticated investment letter from the purchaser of the Bonds or BANs at the time of delivery of the Bonds or BANs which satisfies applicable state and federal securities laws.

(d) The Controller, with the advice of the Municipal Advisor, is hereby authorized to obtain one or more ratings for the Bonds if such rating or ratings will facilitate the sale of the Bonds.

(e) In the event the Municipal Advisor certifies to the City that it would be economically advantageous for the City to obtain bond insurance for the Bonds, the City hereby authorizes the purchase of such bond insurance; provided, however, if the Bonds are sold to the Authority as part of the IFA Program, the prior written consent of the Authority shall be obtained by the City prior to purchasing such bond insurance. In such case, the Mayor, the Controller and the Clerk are hereby authorized to execute and deliver all agreements with the provider of the bond insurance to the extent necessary to comply with the terms of such bond insurance and the commitment to issue such bond insurance. The acquisition of bond insurance is hereby deemed economically advantageous if the difference between the present value of (i) the total debt service

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on the Bonds if issued without the bond insurance and (ii) the total debt service on the Bonds if issued with the bond insurance, is greater than the cost of the premium for the bond insurance. The cost of obtaining bond insurance shall be considered as a part of the cost of issuance of the Bonds and may be paid out of the proceeds of the Bonds or out of other funds of the waterworks.

Sec. 8. Bond Sale; Bond Sale Notice.

(a) As determined by the Controller, with the advice of the Municipal Advisor, the Bonds may be sold by either a competitive sale or a negotiated sale.

(b) In the case of a competitive sale of the Bonds, the Controller shall cause to be published either (i) a notice of such sale in the *Herald-Bulletin*, a newspaper published in the City, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in the *Herald-Bulletin* and a newspaper published in Indianapolis, Indiana, all in accordance with IC 5-1-11 and IC 5-3-1. A notice of sale may also be published one time in a newspaper published in Indianapolis, Indiana, and a notice or summary notice may also be published in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the Bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Controller and the attorneys employed by the City shall deem advisable and any summary notice may contain any information deemed so advisable. The notice may provide, among other things, that each bid shall be accompanied by a certified or cashier's check or a wire transfer payable within one day after the sale of the Bonds in an amount equal to one percent (1%) of the principal amount of the Bonds described in the notice and that in the event the successful bidder shall fail or refuse to accept delivery of the Bonds and pay for the same as soon as the Bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default; that bidders for said Bonds will be required to name the rate or rates of interest which the Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-eighth (1/8), one-twentieth (1/20) or one-hundredth (1/100) of one percent (1%). No conditional bid or bid for less than ninety-nine percent (99.0%) of the par value of the Bonds will be considered. The opinion of Bond Counsel, approving the legality of said Bonds, will be furnished to the purchaser at the expense of the City.

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

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(d) As an alternative to a competitive sale, the Controller may negotiate the sale of said Bonds to the Authority through the IFA Program or any other purchaser. The Mayor and Controller are hereby authorized to (i) submit an application to the Authority through the IFA Program, (ii) execute a Financial Assistance Agreement (including any amendment thereof) with the Authority or a Bond Purchase Agreement with any other purchaser, with terms conforming to this ordinance, and (iii) sell such Bonds upon such terms as are acceptable to the Mayor and Controller consistent with the terms of this ordinance.

(e) In the event the Bonds are sold to the Authority through the IFA Program, the Financial Assistance Agreement for the Bonds and the Project shall be executed by the City. The substantially final form of Financial Assistance Agreement attached hereto as Exhibit A and incorporated herein by reference is hereby approved. The Mayor and the Controller are hereby authorized to approve, execute and deliver said Financial Assistance Agreement, and to approve such changes in form or substance thereto which are consistent with the terms of this ordinance, such changes to be conclusively evidenced by its execution. In the event the Bonds are sold in series to the Authority, the Financial Assistance Agreement may be amended and restated for any subsequent series of Bonds sold to the Authority through the IFA Program, with such changes in form or substance to the original Financial Assistance Agreement as the Mayor and the Controller may approve, execute and deliver, consistent with the terms of this ordinance, as conclusively evidenced by its execution.

Sec. 9. Use of Proceeds.

(a) The accrued interest received at the time of the delivery of the Bonds and premium, if any, shall be deposited in the Sinking Fund. The remaining proceeds from the sale of the Bonds, to the extent not used to refund BANs or fund a reserve, and BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as the “City of Anderson Water Utility Waterworks Construction Account” (the “Construction Account”). All funds deposited to the credit of said Sinking Fund or Construction Account shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13, IC 5-1.2-1 through 5-1.2-4, IC 5-1.2-10, IC 5-1.2-14 and/or IC 5-1.2-14.5, and the acts amendatory thereof and supplemental thereto. The funds in the Construction Account shall be expended only for the purpose of paying the cost of the Project, funding capitalized interest, if necessary, refunding the BANs, if issued, or as otherwise required by the Act or for the expenses of issuance of the Bonds or BANs. The cost of obtaining the legal services of Bond Counsel shall be considered as a part of the cost of the Project on account of which the BANs and Bonds are issued.

(b) The City hereby declares that it reasonably expects to reimburse the City’s advances to the Project from proceeds of the BANs or the Bonds, as anticipated by this ordinance.

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(c) Any balance or balances remaining unexpended in the Construction Account after completion of the Project, which are not required to meet unpaid obligations incurred in connection with the Project, shall either (1) be paid into the Bond and Interest Account and used solely for the purpose of paying the interest on the BANs or the Bonds when due until depleted or (2) be used for the same purpose or type of project for which the BANs or the Bonds were originally issued, all in accordance with IC 5-1-13, as amended and supplemented.

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

(e) Prior to the delivery of the Bonds or BANs, the Clerk shall obtain the legal opinion of Bond Counsel and shall furnish such opinion to the purchaser of the Bonds or BANs. The cost of the opinion shall be considered as part of the costs incidental to the issuance of the Bonds or BANs and shall be paid out of the proceeds thereof.

(f) The City hereby declares its “official intent”, as such term is used in the Reimbursement Regulations, to reimburse the City’s advances to the Project, such advances from the City’s General Fund or Utility Account (as hereinafter defined), from proceeds of the BANs or the Bonds herein authorized by this ordinance. The City reasonably expects to make such advances for the costs of the Project.

Sec. 10. Revenue Fund.

All income and revenues derived from the operation of the System and from the collection of water rates and charges (including any System Development Charges), shall be deposited upon receipt in the Revenue Fund, which is hereby continued (the “Revenue Fund”). The Revenue Fund shall be maintained separate and apart from all other accounts of the City. All moneys deposited in the Revenue Fund may be invested in accordance with IC 5-13, as amended, and other applicable laws. Out of these revenues, the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the requirements of the Sinking Fund shall be met, and the costs of replacements, extensions, additions and improvements shall be paid. So long as any Bonds are held by the Authority, no moneys derived from the revenues of the System shall be transferred to the General Fund of the City, except for any payments in lieu of property taxes, or be used for any purpose not connected with the System.

Sec. 11. Operation and Maintenance Fund.

There shall be transferred from the Revenue Fund and credited to the Operation and Maintenance Fund, which is hereby continued (the “Operation and Maintenance Fund”), on or

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before the last day of each calendar month a sufficient amount of the revenues of the System so that the balance in the Operation and Maintenance Fund shall be sufficient to pay the expenses of operation and maintenance of the System for the then next succeeding two calendar months. The moneys credited to the Operation and Maintenance Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the System on a day-to-day basis, but none of the moneys in the Operation and Maintenance Fund shall be used for depreciation, replacements, improvements, extensions or additions. Any monies in the Operation and Maintenance Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding month may be transferred to the Sinking Fund if necessary to prevent a default in the payment of the principal of or interest on the then outstanding revenue bonds payable from Net Revenues of the System.

Sec. 12. Sinking Fund.

(a) General.

(i) The Sinking Fund is hereby continued for the payment of the principal of, the premium, if any, and the interest on revenue bonds which by their terms are payable from the Net Revenues of the System and the payment of any fiscal agency charges in connection with the payment of the principal thereof, the premium, if any, and the interest thereon, which fund shall be designated the “City of Anderson Waterworks Sinking Fund” (the “Sinking Fund”). After meeting the requirements of the Operation and Maintenance Fund set forth above, there shall be set aside and deposited in the Sinking Fund, as available, and as provided below, a sufficient amount of the Net Revenues of the System (including any System Development Charges) to meet the requirements of the Bond and Interest Account and the Reserve Account (each as hereinafter defined) hereby continued in the Sinking Fund. Such payments shall continue until the balance in the Bond and Interest Account and the Reserve Account equals the amount necessary to redeem all of the then outstanding bonds payable from the Net Revenues of the System.

(ii) If the Bonds are sold to the Authority as part of its IFA Program, the Sinking Fund, containing the Bond and Interest Account and the Reserve Account, and/or the Construction Account, may be held by a financial institution acceptable to the Authority as part of its IFA Program, pursuant to terms acceptable to the Authority. If the Sinking Fund and the accounts therein are held in trust, the City shall transfer the monthly required amounts of Net Revenues to the Bond and Interest Account and the Reserve Account in accordance with this Section 12, and the financial institution holding such funds in trust shall be instructed to pay the required payments in accordance with the payment schedules for the City’s outstanding bonds. The Mayor and Controller are hereby authorized to execute and deliver an agreement with a financial institution to reflect this trust arrangement for the Sinking Fund and/or the Construction Account. The financial institution selected to serve in this role may also serve as the Registrar and the Paying Agent for any outstanding bonds of the City.

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(b) Bond and Interest Account. The Bond and Interest Account is hereby continued within the Sinking Fund (the “Bond and Interest Account”). After making the credit to the Operation and Maintenance Account, there shall be transferred, on or before the last day of each calendar month, from the Revenue Fund and credited to the Bond and Interest Account an amount of Net Revenues equal to (i) at least one-sixth (1/6) of the interest on all then outstanding bonds payable from Net Revenues payable on the then next succeeding interest payment date and (ii) at least one-twelfth (1/12) of the principal of all then outstanding bonds payable from Net Revenues payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding interest and principal payment dates shall have been so credited. There shall similarly be credited to the Bond and Interest Account any amount necessary to pay the charges of the Paying Agent, if other than the Controller, for paying the principal of, premium, if any, and interest on the bonds payable from Net Revenues as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the Paying Agent sufficient moneys to pay the principal, premium, if any, and interest on their due dates, together with the amount of the charges of the Paying Agent, if other than the Controller.

(c) Reserve Account.

(i) There is hereby continued, within the Sinking Fund, the Reserve Account (the “Reserve Account”). The Reserve Account shall serve as a reserve for the Outstanding Parity Bonds, the Bonds and any Parity Bonds.

(ii) On the date of delivery of the Bonds, the City may deposit funds on hand, Bond proceeds, unless the Bonds are sold to the Authority as part of its IFA Program, or a combination thereof into the Reserve Account. The balance to be maintained in the Reserve Account shall equal but not exceed the least of (1) the maximum annual debt service on the Bonds, the Outstanding Parity Bonds and any Parity Bonds, (2) 125% of average annual debt service on the Bonds, the Outstanding Parity Bonds and any Parity Bonds or (3) 10% of the proceeds of the Bonds, the Outstanding Parity Bonds and any Parity Bonds (the “Reserve Requirement”); provided, however, that if the Bonds are sold to the Authority as part of its IFA Program or are insured by an insurance or surety provider that so requires it, the Reserve Requirement shall be as described in (1) above. At the time of sale of the Bonds, the actual Reserve Requirement shall be set forth in a closing certificate executed by the Controller. If the initial deposit into the Reserve Account does not cause the balance therein to equal the Reserve Requirement or if no deposit is made, an amount of Net Revenues shall be credited to the Reserve Account on the last day of each calendar month until the balance therein equals the Reserve Requirement. The monthly deposits shall be equal in amount and sufficient to accumulate the Reserve Requirement within five (5) years of the date of delivery of the Bonds.

(iii) The Reserve Account shall constitute a margin for safety and a protection against default in the payment of the principal of, premium, if any, and interest on the Bonds, the Outstanding Parity Bonds and any Parity Bonds and the moneys in the Reserve

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Account shall be used to pay the principal of and interest on the Bonds, the Outstanding Parity Bonds and any Parity Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Reserve Account shall be promptly made up from the next available Net Revenues remaining after the required deposits into the Bond and Interest Account. In the event moneys in the Reserve Account are transferred to the Bond and Interest Account to pay the principal of and interest on the Bonds, the Outstanding Parity Bonds or any Parity Bonds, then that depletion of the balance in the Reserve Account shall be made up from the next available Net Revenues after the required deposits into the Bond and Interest Account. Any moneys in the Reserve Account in excess of the Reserve Requirement shall be transferred to the Utility Account.

(iv) A debt service reserve surety bond may be purchased by the City to satisfy, in whole or in part, the Reserve Requirement. The Mayor, the Controller, and the Clerk are hereby authorized to execute and deliver the necessary agreements with the provider of the debt service reserve surety bond providing for, among other matters, the reimbursement to such provider of amounts drawn under the debt service reserve surety bond. Each of these officials are hereby authorized and directed to complete, execute and attest any agreement pertaining to such a debt service reserve surety bond on behalf of the City so long as its provisions are consistent with this ordinance. The provider of the debt service reserve surety bond must be rated, at the time the debt service reserve surety bond is acquired, in one of the three highest rating categories by either Standard & Poor's Rating Services or Moody's Investors Service. The cost of obtaining a debt service reserve surety bond shall be considered as a part of the cost of issuance of the Bonds and may be paid out of the proceeds of the Bonds or out of other funds of the System. So long as any Bonds are held by the Authority, the prior written consent of the Authority shall be obtained by the City prior to satisfying any portion of the Reserve Requirement with a debt service reserve surety bond.

Sec. 13. Utility Account.

(a) The Utility Account is hereby continued and shall be designated the "City of Anderson Utility Account" (the "Utility Account"). After meeting the requirements of the Operation and Maintenance Fund and the Sinking Fund set forth above, the City shall transfer any excess revenues to the Utility Account from the Revenue Fund on or before the last day of each calendar month to be used and applied in the improvement, extension, replacement and additions of the System. Moneys in the Utility Account shall be transferred to the Sinking Fund if and to the extent necessary to prevent a default in the payment of the principal of, premium, if any, or interest on any outstanding bonds payable from Net Revenues or, if necessary, to eliminate any deficiency in the balance maintained in the Reserve Account as required by Section 12 of this ordinance. At any other time, moneys in the Utility Account may be transferred to the Operation and Maintenance Fund to meet unforeseen contingencies in the operation, repair and maintenance of the System. If the Bonds are sold to the Authority as part of its IFA Program and so long as any Bonds are outstanding, no monies derived from the revenues of the waterworks shall otherwise be

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transferred to the General Fund of the City or otherwise be used for any purpose not connected with the System. Notwithstanding anything herein to the contrary, revenues of the System may only be used for purposes related to the System and as authorized under IC 8-1.5, as amended.

Sec. 14. Maintenance of Accounts: Investments.

The Sinking Fund shall be deposited and maintained as a separate account or accounts from all other accounts of the City. The Operation and Maintenance Fund and the Utility Account may be maintained in a single account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the City (including, without limitation, any funds and accounts relative to any other utility of the City beyond the Waterworks System) and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly IC 5-13, IC 5-1.2-1 through IC 5-1.2-4, IC 5-1.2-10, IC 5-1.2-11, IC 5-1.2-14 and/or IC 5-1.2-14.5 (as applicable), and, and the acts amendatory thereof and supplemental thereto, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance. Nothing in this Section or elsewhere in this ordinance shall be construed to require that separate bank accounts be established and maintained for the Funds and Accounts created by this ordinance. Notwithstanding the foregoing, if the Bonds are sold to the Authority through the IFA Program, (a) the Sinking Fund and Construction Account shall be maintained as a separate bank account from the other funds and accounts of the System and (b) if the Bonds are sold to the Authority, and so long as such Bonds are outstanding and owned by the Authority, the other funds and accounts of the System shall be maintained as a separate bank account from other funds and accounts of the City, including, without limitation, any other funds and accounts for any other utility of the City beyond the waterworks.

Sec. 15. Maintenance of Books and Records.

(a) The City shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues collected from said System, all disbursements made on account of the System and all other transactions relating to the System. There shall be furnished, upon written request, to any owner of the Bonds, the most recent audit report of the System prepared by the State Board of Accounts. Copies of all such statements and reports shall be kept on file in the office of the Controller. Any owner of the Bonds then outstanding shall have the right at all reasonable times to inspect the works and all records, accounts, statements, audits, reports and data of the City relating to the System. Such inspections may be made by representatives duly authorized by written instrument.

(b) If the Bonds or BANs are sold to the Authority through the IFA Program, the City shall establish and maintain the books and other financial records of the Project (including the

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establishment of a separate account or subaccount for the Project) and the System in accordance with (i) generally accepted governmental accounting standards for utilities, on an accrual basis, as promulgated by the Government Accounting Standards Board and (ii) the rules, regulations and guidance of the State Board of Accounts.

Sec. 16. Rate Covenant.

The City covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the service rendered by the System, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses the System by or through any part of the System, or that in any way uses or is served by the System, at a level adequate to produce and maintain sufficient revenue, provided that if any Bonds are sold to the Authority as part of its IFA Program System Development Charges shall be excluded, to the extent permitted by law, when determining if such rates and charges are sufficient so long as the Bonds are outstanding and, if applicable, owned by the Authority as part of its IFA Program, to provide for the proper (i) Operation and Maintenance (as defined in the Financial Assistance Agreement) of the System, if the Bonds are sold to the IFA Program, and (ii) operation, repair and maintenance of the System, if the Bonds are sold to a purchaser other than the IFA Program, to comply with and satisfy all covenants contained in this ordinance and, if applicable, the Financial Assistance Agreement, and to pay all obligations of the System and of the City with respect to the System. Such rates and charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance of the System, or Operation and Maintenance of the System, as the case may be, and the requirements of the Sinking Fund. The rates and charges so established shall apply to any and all use of such works by and service rendered to the City, and all departments thereof, and shall be paid by the City, or the various departments thereof, as the charges accrue.

Sec. 17. Defeasance of Bonds.

If (i) any of the Bonds shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or any portion thereof for redemption shall have been given, and the whole amount of the principal, the premium, if any, and the interest, so due and payable upon all of the Bonds or any designated portion thereof then outstanding shall be paid; or (ii) the City shall cause to be held in trust for the purpose of paying when due the principal of, premium, if any, and interest on the Bonds or any designated portion thereof, money, together with direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America or such other obligations that, the principal of and the interest on which when due, will be sufficient, without reinvestment, to make such payments, and provision shall also be made for paying all fees and expenses for the redemption of such Bonds; then and in that case, such Bonds shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the System.

Sec. 18. Additional BANs and Bonds.

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

(a) All required payments into the Sinking Fund shall have been made in accordance with the provisions of this ordinance, and the interest on and principal of all bonds payable from the Net Revenues of the System shall have been paid to date in accordance with their terms. The Reserve Requirement shall be satisfied for the additional Parity Bonds either at the time of delivery of the additional Parity Bonds or over a five (5) year or shorter period, in a manner which is commensurate with the requirements established in Section 12(c) of this ordinance.

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

(c) The principal of, or mandatory sinking fund redemption for, the Parity Bonds shall be payable annually on January 1 and interest on such Parity Bonds shall be payable semiannually on January 1 and July 1 in the years in which such principal and interest are payable.

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

Sec. 19. Further Covenants.

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For the purpose of further safeguarding the interests of the owners of the BANs and the Bonds, it is specifically provided as follows:

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

(b) Said Project shall be constructed under the supervision and subject to the approval of such competent engineers as shall be designated by the City. All estimates for work done or material furnished shall first be checked by the engineers and approved by the City.

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

(d) So long as any of the BANs or Bonds herein authorized are outstanding, the City shall acquire and maintain insurance coverage, including fidelity bonds, to protect the System and its operations. If the Bonds or BANs are sold to the Authority through its IFA Program, such insurance shall be acceptable to the Authority. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. Insurance proceeds and condemnation awards shall be used to replace or repair the System, unless the Authority consents to a different use of such proceeds or awards if the Bonds or BANs are held by the Authority through its IFA Program.

(e) So long as any of the BANs or Bonds are outstanding, the City shall not mortgage, pledge or otherwise encumber such works or any part thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except machinery, equipment or property which may become worn out, obsolete or no longer suitable for use in the System. If the Bonds or BANs are sold to the Authority through the IFA Program, the City shall obtain the consent of the Authority prior to the disposal of any portion of the System as described herein.

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

(g) Except as hereinbefore provided in Section 18 hereof, so long as any of the Bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said System shall be authorized, executed, or issued by the City except such as

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shall be made subordinate and junior in all respects to the Bonds herein authorized, unless all of the Bonds herein authorized are redeemed, retired or defeased pursuant to Section 17 hereof coincidentally with the delivery of such additional bonds or other obligations.

(h) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the Bonds and BANs herein authorized, and after the issuance of said Bonds or BANs, this ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the owners of said Bonds or BANs nor shall the Common Council adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as any of said Bonds, BANs or the interest thereon remain unpaid. Except for the changes set forth in Section 22(a)(i)-(vii), this ordinance may be amended, however, without the consent of BAN or Bond owners, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the BANs or Bonds; provided, however, that if the Bonds or BANs are sold to the Authority through the IFA Program, the City shall obtain the prior written consent of the Authority.

(i) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds and BANs herein authorized for the uses and purposes herein set forth, and the owners of the Bonds and BANs shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and of said governing Act. The provisions of this ordinance shall also be construed to create a trust in the portion of the Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of said fund as in this ordinance set forth. The owners of said Bonds shall have all of the rights, remedies and privileges set forth in the provisions of the governing Act hereinbefore referred to, including the right to have a receiver appointed to administer said waterworks, in the event the City shall fail or refuse to fix and collect sufficient rates and charges, or shall fail or refuse to operate and maintain said system and to apply the revenues derived from the operation thereof, or if there be a default in the payment of the principal of or interest on any of the Bonds herein authorized or in the event of default in respect to any of the provisions of this ordinance or the governing Act.

(j) For purpose this Section 19, the term “lease” shall include any lease, contract, or other instrument conferring a right upon the City to use property in exchange for a periodic payments made from the revenues of the System, whether the City desires to cause such to be, or by its terms (or its intended effects) is to be, (i) payable as rent, (ii) booked as an expense or an expenditure, or (iii) classified for accounting or other purposes as a capital lease, financing lease, operating lease, non-appropriation leases, installment purchase agreement or lease, or otherwise (including any combination thereof).

Sec. 20. Investment of Funds.

The Controller is hereby authorized to invest moneys pursuant to IC 5-1-14-3 and the provisions of this ordinance (subject to applicable requirements of federal law to insure such yield is the then current market rate) to the extent necessary or advisable to preserve the exclusion from

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gross income of interest on the Bonds and BANs under federal law. The Controller shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts created, continued or referenced herein. In order to comply with the provisions of the ordinance, the Controller is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion. The Controller may pay any such fees as operating expenses of the System.

Sec. 21. Tax Covenants.

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

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

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

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

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

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

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

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

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

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

Sec. 22. Amendments with Consent of Bondholders.

(a) Subject to the terms and provisions contained in this Section and Section 19(h), and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds issued pursuant to this ordinance and then outstanding shall have the right, from time to time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that if the Bonds or BANs are sold to the Authority through the IFA Program, the City shall obtain the prior written consent of the Authority; and provided, further, that nothing herein contained shall permit or be construed as permitting:

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- (i) An extension of the maturity of the principal of or the due date of interest on any BAN or Bond; or
- (ii) A reduction in the principal amount of any BAN or Bond or the redemption premium or the rate of interest thereon; or
- (iii) The creation of a lien upon or a pledge of the revenues or Net Revenues of the System ranking prior to the pledge thereof created by this Ordinance; or
- (iv) A preference or priority of any BAN or BANs over any other BAN or BANs or of any Bond or Bonds over any other Bond or Bonds; or
- (v) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance; or
- (vi) A reduction in the Reserve Requirement; or
- (vii) The extension of mandatory sinking fund redemption dates for the Bonds, if any.

(b) If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Controller, no owner of any Bond shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common Council from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this Ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Ordinance of the City and all owners of Bonds then outstanding, shall thereafter be determined, exercised and enforced in accordance with this Ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this Ordinance, the rights and obligations of the City and the owners of the Bonds, and the terms and provisions of the Bonds and this Ordinance, or any supplemental ordinance, may be modified or altered in any respect with the consent of the City and the owners of all the Bonds then outstanding.

Sec. 23. Issuance of BANs.

(a) The City, having satisfied all the statutory requirements for the issuance of the Bonds, may elect to issue the BAN or BANs to a financial institution, the Authority, or to any other purchaser (if then authorized by State law), pursuant to a Bond Anticipation Note Purchase Agreement (the “Bond Anticipation Note Agreement”) to be entered into between the City and the

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purchaser of the BAN or BANs, but only if such Agreement is deemed necessary by Bond Counsel. If the BANs are sold to the Authority through the IFA Program, the Financial Assistance Agreement shall serve as the Bond Anticipation Note Agreement. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing the Bonds to provide interim financing for the Project until permanent financing becomes available and, if deemed appropriate, to refund such BAN or BANs and to pay the costs of issuance of the BANs. It shall not be necessary for the City to repeat the procedures for the issuance of the Bonds, as the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the Bonds and the use of the proceeds to repay the BAN or BANs.

(b) The Mayor and the Controller are hereby authorized and directed to execute a Bond Anticipation Note Agreement or Financial Assistance Agreement, if any, in such form or substance as they shall approve, acting upon the advice of Bond Counsel. The Mayor or the Controller may take such other actions or execute and deliver such certificates as are necessary or desirable in connection with the issuance of the BANs or the Bonds and the other documents needed for the financing as any one of them deem necessary or desirable in connection therewith.

Sec. 24. Continuing Disclosure.

If necessary in order for the purchaser of the Bonds or BANs to comply with the Rule, the Mayor and Controller are hereby authorized to execute and deliver, in the name and on behalf of the City, an agreement by the City to comply with the requirements of a continuing disclosure undertaking by the City pursuant to subsection (b)(5) of the Rule, and any amendments thereto from time to time (the "Continuing Disclosure Agreement"). The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement.

Sec. 25. Tax Exemption.

Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance (the "Tax Sections") which are designed to preserve the exclusion of interest on the BANs and Bonds from gross income under federal law (the "Tax Exemption") need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption. At the time of delivery of the BANs and Bonds, the Mayor and Controller will execute post-issuance compliance procedures with respect to the BANs and Bonds relating to continued compliance of the City with respect to the Tax Sections to preserve the Tax Exemption.

Sec. 26. Conflicting Ordinances.

All prior ordinances and parts of prior ordinances, insofar as they are in conflict herewith, except the ordinances authorizing the Outstanding Parity Bonds, are hereby repealed; provided, however, that this ordinance shall not be construed as adversely affecting the rights of the owners of the Outstanding Parity Bonds.

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Sec. 27. Headings.

The headings or titles of the sections in this Ordinance shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Ordinance.

Sec. 28. Effective Date.

This ordinance takes full effect upon passage by the Council and approval of the Mayor.

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PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF ANDERSON,
INDIANA, THIS ____ DAY OF _____, 2022.

Rebecca Crumes, President

ATTEST:

Sheila Ashley, City Clerk

Presented by me, the undersigned City Clerk of the City of Anderson, to the Mayor of the
City for his approval on the ____ day of _____, 2022, at _____ o'clock ____m.

Sheila Ashley, City Clerk

Having examined the foregoing Ordinance, I do now, as the Mayor of the City of Anderson,
Indiana, approve said Ordinance and return the same to the City Clerk of the City of Anderson,
this ____ day of _____, 2022.

Thomas J. Broderick, Jr.,
Mayor of Anderson, Indiana

Prepared by:
Dennis H. Otten
BOSE MCKINNEY & EVANS LLP

Reviewed and approved by:
Tim Lanane
Anderson City Attorney

Sponsored by:

David Eicks
Chairman, Anderson Board of Public Works

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EXHIBIT A

Form of Financial Assistance Agreement