

ORDINANCE NO. 78-17

An Ordinance concerning the construction of additions and improvements to the sewage works owned and operated by the City of Bloomington, Indiana, the issuance of additional revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of the works, the safeguarding of the interests of the holders of said bonds, and other matters connected therewith

WHEREAS, the City of Bloomington, Indiana, has heretofore established and now owns and operates sewage works pursuant to IC 19-2-5; and

WHEREAS, the Utilities Service Board of the City of Bloomington has represented to the Common Council and the Council now finds that said sewage works is in need of certain additions and improvements; that plans, specifications and estimates have been prepared and filed by the engineers employed by the City for the necessary additions and improvements to the sewage works owned and operated by said City, which plans and specifications have been approved by the Utilities Service Board of said City and by all governmental authorities having jurisdiction; and

WHEREAS, the Council further finds that the Utilities Service Board has advertised for and received bids for the construction of said additions and improvements to the sewage works of said City, and on the basis of said bids the cost of said project, as defined in Sec. 1 of the governing act, will be in the amount of Twenty-four Million Nine Hundred Fifty-five Thousand Five Hundred Dollars (\$24,955,500); and

WHEREAS, the Common Council finds that funds for application on the cost of said project in the approximate amount of Twenty Million Three Hundred Fifty-five Thousand Five Hundred Dollars (\$20,355,500) will be available from federal and state grants, leaving a balance of Four Million Six Hundred Thousand

Dollars (\$4,600,000) to be financed by the issuance of revenue bonds under the provisions of said Act; and

WHEREAS, the Council finds that there are now outstanding bonds payable out of the revenues of the City's sewage works, designated "Sewage Works Revenue Bonds of 1955," authorized by Ordinance No. 15-1955, adopted August 2, 1955, presently outstanding in the amount of One Million Ninety-six Thousand Dollars (\$1,096,000), issued under date of August 1, 1955, maturing semi-annually over a period ending February 1, 1994, bearing interest at the rate of three and one-fourth per cent (3-1/4%) per annum; that said bonds constitute a first charge upon the net revenues of the sewage works and the ordinance authorizing the issuance of said bonds requires that any bonds subsequently issued be junior and subordinate thereto in respect to the application of the revenues of said sewage works; and

WHEREAS, the Council finds that there are also now outstanding bonds issued on account of the construction of prior improvements, additions and extensions to the City's sewage works and payable out of the revenues thereof, designated "Sewage Works Revenue Bonds of 1968," dated July 1, 1968, outstanding in the amount of Four Million Eight Hundred Forty Thousand Dollars (\$4,840,000), bearing interest at the rates of six per cent (6%), four and ninety-hundredths per cent (4.90%), five per cent (5%) or four per cent (4%) per annum, depending upon the maturities, maturing annually over a period ending February 1, 1998, which bonds are junior and subordinate to the sewage works revenue bonds dated August 1, 1955; and

WHEREAS, the Council finds that the proposed new bonds cannot be issued on a parity with the Sewage Works Revenue Bonds of 1955, dated August 1, 1955, but can be issued on a parity with the Sewage Works Revenue Bonds of 1968; provided certain

conditions are met, which conditions the Council finds have been met; and

WHEREAS, the Common Council finds that the cost of said improvements cannot be provided for out of funds of the sewage works now on hand or to be received prior to the completion thereof; and that the funds for the cost thereof should be provided by the issuance of additional revenue bonds payable solely out of the revenues of the City's sewage works, to be junior and subordinate to the Sewage Works Revenue Bonds of 1955, dated August 1, 1955; and on a parity with the Sewage Works Revenue Bonds of 1968; and that all conditions precedent to the adoption of an ordinance authorizing the issuance of said additional revenue bonds have been complied with in accordance with the provisions of the governing statute; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA:

Section 1. That the actions of the Utilities Service Board in and about the making of additions and improvements to the sewage works of the City of Bloomington be and the same are hereby approved, ratified and confirmed, and that said Board be and it is hereby authorized and directed to proceed with the construction of additions and improvements to said sewage works in accordance with the plans and specifications heretofore prepared and filed by Black & Veatch, consulting engineers of Kansas City, Missouri, which plans and specifications are hereby approved and by reference made a part of this ordinance as fully as if the same are attached hereto and incorporated herein, also to acquire any necessary property therefor; provided that the cost of construction of said additions and improvements and acquisition of necessary property therefor shall not exceed the sum of Twenty-four Million Nine Hundred

Fifty-five Thousand Five Hundred Dollars (\$24,955,500). The terms "sewage works," "works," and other like terms where used in this ordinance shall be construed to mean and include all existing structures and property and all additions, extensions and improvements hereafter constructed or acquired, whether from the proceeds of the bonds herein authorized or otherwise. The additions and improvements to said works shall be constructed and the bonds herein authorized shall be issued pursuant to and in accordance with the provisions of IC 19-2-5, and all acts amendatory thereof and supplemental thereto, hereinafter sometimes referred to as the "Act".

Section 2. Said additions and improvements shall include land, easements, rights-of-way, construction of the Dillman Road Wastewater Treatment Plant, together with extensions and improvements to the existing wastewater treatment and collection system.

Section 3. The City of Bloomington shall issue its sewage works revenue bonds in the amount of Four Million Six Hundred Thousand Dollars (\$4,600,000) for the purpose of procuring funds to be applied on the cost of said additions and improvements to said works, as defined in Section 1 of this Act. The bonds authorized by this ordinance shall be designated as "Sewage Works Revenue Bonds, Series of 1978". Any other provisions of this ordinance to the contrary notwithstanding, the revenue bonds herein authorized to be issued shall be junior and subordinate in all respects to said now outstanding Sewage Works Revenue Bonds of 1955, but on a parity with said now outstanding Sewage Works Revenue Bonds of 1968.

Said bonds shall be issued in the denomination of Five Thousand Dollars (\$5,000) each, numbered consecutively from one (1) upward, dated as of the first day of the month in which

sold, and shall bear interest at a rate or rates not exceeding seven and one-half per cent (7 1/2%) per annum, payable on the first days of February and August of each year, beginning on August 1, 1978. Such interest shall be evidenced by coupons attached to said bonds. Both bonds and interest coupons shall be payable in lawful money of the United States of America at The Bloomington National Bank, in the City of Bloomington, Indiana, or, at the option of the holder, at the principal office of The Indiana National Bank, in the City of Indianapolis, Indiana, or, at the Continental Illinois National Bank and Trust Company of Chicago, in the City of Chicago, Illinois, or, at the principal office of the First National City Bank, in the Borough of Manhattan, City and State of New York, and such bonds shall mature serially in numerical order on February 1 in the years and amounts as follows:

<u>Years</u>	<u>Amounts</u>	<u>Years</u>	<u>Amounts</u>
1981-1983 incl.	\$ 10,000	2001	\$595,000
1984-1997 incl.	5,000	2002	640,000
1998	270,000	2003	690,000
1999	510,000	2004	745,000
2000	550,000	2005	500,000

Section 4. The bonds of this issue maturing on February 1, 1998, and thereafter, shall be redeemable at the option of the City, in whole or in part, on August 1, 1997, or any interest payment date thereafter, in inverse order of maturity and by lot within a maturity, at face value, together with a premium of 2% of the principal amount, plus in each case accrued interest to the date fixed for redemption. Notice of such redemption shall be published at least one time in a newspaper or financial journal of general circulation published in each of the following named cities: Bloomington, Indiana, Indianapolis, Indiana, and in The Bond Buyer, published in the City of New York, New York, or, if that journal should cease publication then in its successor if there be such, or otherwise in a

financial journal of national circulation published in the Borough of Manhattan, City and State of New York. Such publication shall not be more than sixty (60) days nor less than thirty (30) days prior to the date fixed for redemption. If any of the bonds so to be redeemed are registered, such notice shall be mailed to the address of the registered holder as shown on the registration records of the City. The notice shall also be filed with the paying agent banks. The notice shall specify the date and place of redemption, and the serial numbers and dates of maturity of the bonds called for redemption. The place of redemption shall 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 and thereafter when presented for payment. Coincidentally with the payment of the redemption price, the bonds so called for redemption shall be surrendered for cancellation, together with the unmatured coupons appurtenant thereto.

Section 5. Said bonds shall be signed in the name of the City by the Mayor, countersigned by the City Controller, and attested by the City Clerk who shall affix the seal of said City to each of said bonds. Two of said signatures may be facsimiles. The interest coupons attached to said bonds shall be executed by placing thereon the facsimile signatures of the Mayor and City Controller. In case any officer whose signature appears on the bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until the delivery thereof.

Said bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana.

Said bonds shall be negotiable by delivery unless registered. Upon presentation of any of the bonds at the office of the City Controller, said City Controller shall register said bonds as to principal without charge or expense to the holder. Such registry shall be noted on each bond so presented, after which no transfer thereof shall be valid unless made by the registered owner in person or by his attorney duly authorized and similarly noted on such bond, but bonds so registered may be discharged from registry by being in like manner retransferred to bearer, after which they shall be transferable by delivery but may again be registered as before. The registration of any bond shall not affect the negotiability of the interest coupons attached thereto, but such coupons shall continue to pass by delivery merely and shall remain payable to the bearer.

Said bonds, the Sewage Works Revenue Bonds of 1968, and any bonds hereafter issued 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 charge upon all the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the sewage works of the City of Bloomington, including the existing works, the improvements and extensions herein authorized to be acquired and constructed, and all additions and improvements thereto and replacements thereof subsequently constructed or acquired; subject, however, to the prior charge against and payment from said net revenues of the principal of and interest on certain now outstanding bonds designated "Sewage Works Revenue Bonds of 1955". The

City shall not be obligated to pay the bonds herein authorized or the interest thereon except from the net revenues of said works, 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.

Section 6. The form and tenor of said bonds, the interest coupons to be attached thereto, and the form of registry endorsement thereon shall be substantially as follows, all blanks to be filled in properly prior to delivery thereof:

UNITED STATES OF AMERICA
State of Indiana County of Monroe
No. _____ \$ _____

CITY OF BLOOMINGTON
SEWAGE WORKS REVENUE BOND
SERIES OF 1978

The City of Bloomington, in Monroe County, State of Indiana, for value received, hereby promises to pay to the bearer, or if this bond be registered, then to the registered holder, solely out of the special revenue funds hereinafter referred to, the principal amount of

FIVE THOUSAND DOLLARS

on the first day of February, 19__, (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided) and to pay interest thereon from the date hereof until the principal is paid, at the rate of _____ per cent (____%) per annum, payable on the first day of February and August in each year, beginning on August 1, 1978, upon presentation and surrender of the annexed coupons as they severally become due.

Both principal and interest of this bond are payable in lawful money of the United States of America at the principal office of The Bloomington National Bank, in the City of Bloomington, Indiana, or, at the option of the holder, The Indiana National Bank, in the City of Indianapolis, Indiana, the Continental Illinois National Bank and Trust Company of Chicago, in the City of Chicago, Illinois, or First National City Bank, in the Borough of Manhattan, City and State of New York.

This bond is one of an authorized issue of bonds of the City of Bloomington, of like date,

tenor and effect, except as to interest rates and dates of maturity, in the total amount of Four Million Six Hundred Thousand Dollars (\$4,600,000), numbered from 1 to 920 inclusive, issued for the purpose of providing funds to pay the cost of additions and improvements to the City's sewage works, as authorized by an ordinance adopted by the Common Council of the City of Bloomington on _____, 1978, entitled "An Ordinance concerning the construction of additions and improvements to the sewage works owned and operated by the City of Bloomington, Indiana, the issuance of additional revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of the works, the safeguarding of the interests of the holders of said bonds, and other matters connected therewith," and in strict compliance with the provisions of IC 19-2-5, and the acts amendatory thereof and supplemental thereto.

Pursuant to the provisions of said Act and said ordinance, the principal and interest of this bond and all other bonds of said issue, certain Sewage Works Revenue Bonds of 1968, now outstanding in the principal amount of Four Million Eight Hundred Forty Thousand Dollars (\$4,840,000), bearing interest at the rates of six per cent (6%), four and ninety-hundredths per cent (4.90%), five per cent (5%) or four per cent (4%) per annum, depending upon the maturities, and maturing annually over a period ending on February 1, 1998, ranking on a parity therewith, are payable solely from the Sewage Works Sinking Fund (heretofore created by Ordinance No. 8-1955 adopted August 2, 1955) to be provided from the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the sewage works of the City of Bloomington, including the improvements and extensions constructed or acquired by the use of the proceeds of this bond and the issue of which it is a part, and all improvements and extensions thereto and replacements thereof subsequently constructed or acquired; subject, however, to the prior payment from said Sinking Fund of the principal of and interest on certain Sewage Works Revenue Bonds of 1955, dated August 1, 1955, now outstanding in the principal amount of One Million Ninety-six Thousand Dollars (\$1,096,000), bearing interest at the rate of three and one-fourth per cent (3-1/4%) per annum, and maturing semi-annually over a period ending on February 1, 1994, in accordance with the terms thereof. This bond shall not constitute an indebtedness of the City of Bloomington 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 thereon except from said special fund provided from said net revenues.

The City of Bloomington irrevocably pledges the entire net revenues of said sewage works, to

the extent necessary for that purpose, to the prompt payment of the principal and interest of the bonds authorized by said ordinance, of which this is one, any bonds hereafter issued on a parity therewith, and the outstanding Sewage Works Revenue Bonds of 1955 and the Sewage Works Revenue Bonds of 1968. The City covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by said works as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of said works, to provide for proper depreciation, and for the payment of the sums required to be paid into said Sinking Fund under the provisions of said Act and said ordinance. In the event the City, or the proper officers thereof, shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the holder of this bond shall have all of the rights and remedies provided for in said IC 19-2-5, and the acts amendatory thereof and supplemental thereto, including the right to have a receiver appointed to administer the works and to charge and collect rates sufficient to provide for the payment of this bond and the interest thereon.

The City further covenants that it will set aside and pay into its Sewage Works Sinking Fund a sufficient amount of the net revenues of said works to meet (a) the interest on all bonds payable from the revenues of the sewage works as such interest shall fall due, (b) the necessary fiscal agency charges for paying the bonds and interest, (c) the principal of all bonds payable from the revenues of the sewage works as the same is payable, and (d) an additional amount as a margin of safety and for the payment of premiums on bonds redeemed by call or purchase to create the reserves required by the ordinance authorizing this bond.

The bonds of this issue maturing on February 1, 1998, and thereafter, are redeemable at the option of the City, in whole or in part, on August 1, 1997, or any interest payment date thereafter, in inverse order of maturity and by lot within a maturity, at face value, together with a premium of 2%, plus in each case accrued interest to the date fixed for redemption; provided notice of such redemption shall be published one time at least thirty (30) days prior to the date fixed for redemption in a newspaper or financial journal of general circulation published in each of the following cities: Bloomington, Indiana; Indianapolis, Indiana; and in The Bond Buyer, published in the City of New York, New York, or, if that journal should cease publication, then in its successor if there be such or otherwise in a financial journal of national circulation published in the Borough of Manhattan, City and State of New York. A like notice shall be sent by mail to the holders of such bonds as are then registered. Interest on the bonds so called for redemption shall

cease on the redemption date fixed in said notice, if funds are available at the place of redemption to pay the redemption price on the date so named or when presented for payment. The bonds so redeemed prior to maturity shall be surrendered for cancellation, together with all unmatured interest coupons appurtenant thereto.

If any bond or interest coupon shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with The Bloomington National Bank, in the City of Bloomington, Indiana, an amount sufficient to pay such bond or interest coupon or the redemption price thereof, as the case may be, and thereafter the holder 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 and all other bonds of said issue shall have all the qualities and incidents of negotiable instruments under the laws of the State of Indiana. This bond may be registered as to principal at the office of the City Controller in the City of Bloomington, Indiana, in the name of the owner hereof, and such redemption noted hereon by said City Controller. Thereafter no transfer hereof shall be valid unless made at said office by the registered owner in person or by his duly authorized attorney and similarly noted thereon, but this bond may be discharged from registration by being in like manner transferred to bearer and may again from time to time be registered or transferred to bearer as before. Such registration shall not restrict or affect the negotiability of the interest coupons hereto attached by delivery only, but such interest coupons shall always be payable to bearer.

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

IN WITNESS WHEREOF, the City of Bloomington, in Monroe County, State of Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of its Mayor, countersigned by the manual or facsimile signature of its City Controller, its corporate seal to be hereunto affixed, and attested by its City Clerk, and the interest coupons hereto attached to be executed by placing thereon the facsimile signatures of said Mayor and City Controller, as of the first day of _____, 1978.

CITY OF BLOOMINGTON

By Francis V. McCloskey
Mayor

Countersigned:

City Controller

Attest:

City Clerk

(Interest Coupon)

Coupon No. _____ \$ _____

On _____, 19__ (unless the bond herein mentioned shall be subject to and shall have been called for previous redemption), the City of Bloomington, Indiana, will pay to the bearer at The Bloomington National Bank, in the City of Bloomington, Indiana, or, at the option of the holder, at The Indiana National Bank, in the City of Indianapolis, Indiana, at the Continental Illinois National Bank and Trust Company of Chicago, in the City of Chicago, Illinois, or at the First National City Bank, in the Borough of Manhattan, City and State of New York, out of its Sewage Works Sinking Fund, the amount shown hereon in lawful money of the United States of America, being the interest then due on its Sewage Works Revenue Bond of 1978, dated _____, No. _____.

CITY OF BLOOMINGTON

By _____ (Facsimile)
Mayor

_____ (Facsimile)
City Controller

REGISTRATION ENDORSEMENT

This bond can be registered only at the office of the City Controller in the City of Bloomington, Indiana. No writing hereon except by the City Controller.

Date of Registry	In Whose Name Registered	City Controller
_____	_____	_____
_____	_____	_____
_____	_____	_____

Section 7. The City Controller is hereby authorized and directed to have said bonds and coupons prepared, and the Mayor, City Controller and City Clerk are hereby authorized and directed to execute said bonds and the interest coupons to be attached

thereto, in the form and manner herein provided. After said bonds have been properly executed the City Controller shall deliver the same to the Treasurer of Monroe County, ex officio Treasurer of the City of Bloomington, and shall take his receipt therefor, and upon the consumption of the sale of said bonds the City Controller shall certify to the Treasurer the amount which the purchaser is to pay for the same; thereupon, the Treasurer shall be authorized to receive from the purchaser the amount so certified by the Controller, and to deliver the bonds to such purchaser. The amount to be certified by the Controller and collected by the Treasurer shall be the full amount which the purchaser has agreed to pay therefor, which shall not be less than the face value of said bonds, plus accrued interest from the date thereof to the date of delivery. The bonds herein authorized, when fully paid for and delivered to the purchaser, shall be binding special revenue obligations of the City, payable out of the revenues of the City's sewage works to be set aside into the Sewage Works Sinking Fund as herein provided, and the proceeds derived from the sale of said bonds shall be and are hereby set aside for application on the cost of construction of said additions and improvements to the City's sewage works hereinbefore referred to, and the expenses necessarily incurred in connection therewith and on account or in connection with the issuance of said bonds. The proper officers of the City are hereby directed to do all acts and things which may be necessary to carry out the provisions of this ordinance.

Section 8. Prior to the sale of said bonds the City Controller shall cause to be published a notice of such sale once each week for two (2) weeks in the Bloomington Herald Telegraph, published in the City of Bloomington, Indiana, and one time in a newspaper or financial journal published in the City

of Indianapolis, the last publication to be at least seven (7) days prior to the date fixed for said sale. Said notice, or a summary of the terms thereof, may also be published in a newspaper or financial journal published in the City of New York, New York, in the discretion of the City Controller. The bond sale notice shall state the time and place of sale, the character and amount of the bonds, the maximum rate of interest thereon, the maturities thereof, the purpose for which the bonds are being issued, the terms and conditions upon which bids will be received and the sale made, and such other information as the City Controller and the attorneys employed by the City shall deem advisable. Said notice shall provide, among other things, that each bid shall be accompanied by a certified or cashier's check in the amount of Fifty Thousand Dollars (\$50,000) to guaranty performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of the bonds and pay for the same 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.

All bids for said bonds shall be sealed and shall be presented to the Controller at his office. Bidders for said bonds shall be required to name the rate or rates of interest which the bonds are to bear, not exceeding the maximum rate hereinbefore fixed. Such interest rate or rates shall be in multiples of one-eighth ($1/8$) or one-tenth ($1/10$) of one per cent (1%), and not more than four (4) different interest rates shall be named by each bidder. Bids specifying more than one interest rate shall also specify the amount and maturities of the bonds bearing each rate, but all bonds maturing on the same date shall bear the same single coupon rate. The interest due on

any bond on any interest payment date shall be represented by a single interest coupon. The bonds shall be awarded by the City Controller to the highest qualified bidder who has submitted his bid in accordance with the terms of this ordinance and the notice of sale. The highest bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing the total interest on all of the bonds to their maturities and deducting therefrom the premium bid, if any. No bid for less than the par value of said bonds, including accrued interest to the date of delivery, shall be considered. The right to reject any and all bids shall be reserved. In the event an acceptable bid is not received on the date fixed in the notice, the City Controller shall be authorized to continue the sale from day to day for a period of not to exceed thirty (30) days without readvertisement, but during such continuation no bid shall be accepted which is lower than the highest bid offered at the advertised sale.

Prior to the delivery of said bonds the Controller shall be authorized to obtain a legal opinion as to the validity of the bonds from Ice Miller Donadio & Ryan, acting as bond counsel for the City, and to furnish such opinion to the purchasers of the bonds. The fee of such bond counsel shall be considered as a part of the cost of the project on account of which said bonds are issued, and shall be paid out of the proceeds of said bond.

Section 9. The accrued interest and premium received at the time of the delivery of the bonds, if any, together with a sum equal to one year's interest on the Series of 1978 Bonds, shall be deposited in the Sewage Works Sinking Fund heretofore created by Ordinance No. 8-1955, adopted on August 2, 1955. The remaining proceeds from the sale of said bond 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 "City of Bloomington, Sewage Works Construction Account". All funds deposited to the credit of said Sewage Works Sinking Fund or Sewage Works Construction Account shall be deposited, held and secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding and securing or investing of public funds. The funds in said special construction account or accounts shall be expended only for the purpose of paying the cost of the additions and improvements to the works, as defined in IC 19-2-5, or as otherwise required by said Act. Any balance or balances remaining unexpended in such special account or accounts after completion of the works, which are not required to meet unpaid obligations incurred in connection with such project, shall be paid into the Sewage Works Sinking Fund and shall be used solely for the purposes of said fund.

Subject to the approval of the Utilities Service Board, the City Controller shall be authorized to invest such portion of the funds in said Construction Account as shall not be required for immediate use, provided that no such investments shall be made at a cost in excess of the par value of the securities purchased, and that none of the funds shall be invested in any securities the mature st date of which is later than the times when such funds are required to be available for the purposes thereof, or if the time when such funds will be required for use cannot be determined, such investments shall be made only in securities having a maturity date of one (1) year or less from the date of purchase. Such investment shall be made in strict accordance with the provisions of the laws of the State of Indiana, and any interest or other accretions derived

from any such investments shall become a part of the funds invested. In conformity with the provisions of the governing statutes, the holders of said bonds shall be entitled to a lien on the proceeds of said bonds until the same are applied on the project on account of which said bonds were issued.

Section 10. All of the revenue derived from the operation of the City's sewage works shall be segregated and kept in the special fund, separate and apart from all other funds of the City, heretofore created by Ordinance No. 8-1955, adopted on August 2, 1955, and designated as "Sewage Works General Fund". Out of this fund, all proper and reasonable expenses of operation, repair and maintenance of the works shall be paid.

Section 11. The special fund designated "Sewage Works Sinking Fund" created by Ordinance No. 8-1955, adopted on August 2, 1955, for the payment of the Sewage Works Revenue Bonds of 1955 authorized by said ordinance, is hereby designated and constituted as the special fund for the payment of the interest on and principal of the revenue bonds authorized by this ordinance and the payment of any fiscal agency charges in connection with the payment of the bonds and interest coupons. Said fund shall be continued until all of the bonds issued under said prior ordinance and this ordinance have been paid. There shall be set aside and paid into said Sinking Fund monthly, as available, a sufficient amount of the net revenues of said sewage works for the payment of (a) the interest on all bonds which by their terms are payable from the revenues of the sewage works, as such interest shall fall due, (b) the necessary fiscal agency charges for paying said bonds and interest, (c) the principal of all bonds which by their terms are payable from the revenues of the sewage works, as they fall due, and (d) an additional amount as a margin of safety and for the

payment of premiums upon bonds redeemed by call or purchase, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal not less than ten per cent (10%) of all other amounts so required to be paid into said Sinking Fund; provided, however, that the Sewage Works Revenue Bonds of 1955 shall have priority in respect to the payment of interest and principal from the funds in said Sewage Works Sinking Fund. The term "net revenues" as used in this section shall be construed to mean the revenues remaining after the cost of operation, maintenance and repair have been paid. The monthly payments into said Sinking Fund shall be in an amount equal to at least one-twelfth (1/12) of the amount required for such payments during the then next succeeding twelve (12) calendar months and shall continue until such time as said funds shall contain an amount sufficient to pay all of the bonds then outstanding, together with the interest thereon to the date of maturity thereof.

In no event shall any part of the Sewage Works Sinking Fund be used in calling bonds for redemption prior to maturity, except to the extent that the amount then in said Sinking Fund exceeds the amount required to pay the principal of the bonds payable therefrom which will mature within a period of twelve (12) calendar months next following the date of such redemption, together with all interest on the bonds payable in said period. Any such excess of funds above said required level may also be used in purchasing outstanding bonds at a price less than the then applicable redemption price, if first approved by the Utilities Service Board. Moneys in said Sinking Fund shall not be used for any other purpose whatsoever except as provided in this ordinance.

Section 12. In the event all required payments into the Sewage Works Sinking Fund have been met to date and there has been accumulated in said Sewage Works Sinking Fund an amount sufficient to meet the requirements of said Sinking Fund for the then next succeeding twelve (12) calendar months, and funds in an amount sufficient for operation, repair and maintenance of the works for a like period have been accumulated and reserved for that purpose in the Sewage Works General Fund, and the requirements of Ordinance No. 8-1955 as to the Sewage Works Depreciation Fund have been met, then any excess revenues of the works available may be placed in a fund to be designated as "Sewage Works Improvement Fund" and be used to pay the cost of additions and extensions to the works. No revenues of the works shall be deposited in or credited to the Sewage Works Depreciation Fund or Sewage Works Improvement Fund which will interfere with the requirements of the Sewage Works Sinking Fund or with the requirements as to reserving funds for the operation, maintenance and repair of the works; provided, however, that the requirements of reserving funds for the operation, maintenance and repair of the works shall not be required upon final payment, or provision for final payment, of the Sewage Works Revenue Bonds of 1955 and the Sewage Works Revenue Bonds of 1968 have been made.

Section 13. All revenues received on account of the sewage works shall be segregated and kept in a special fund separate and apart from all other funds of the City. 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 works and deposited in the Sewage Works General Fund, and all disbursements made therefrom on account of the operation of the

works, or to meet the requirements of the Sewage Works Sinking Fund, also all other financial transactions relating to said works, including the amounts set aside or credited to the Sewage Works Depreciation Fund and Sewage Works Improvement Fund, and the cash balances in each of said funds as of the close of the preceding fiscal year. There shall be prepared and furnished to the original purchaser of the bonds, and, upon written request, to any subsequent holder of the bonds at the time then outstanding, not more than ninety (90) days after the close of each fiscal year, operating income and expense and balance sheet statements of the works, covering the preceding fiscal year, which annual statements shall be certified by the City Controller, or the person charged with the duty of auditing the books and records relating to said works, or be prepared by an independent certified public accountant retained for that purpose. Copies of all such statements and reports shall be kept on file in the office of the City Controller. Any holder or holders of the bonds then outstanding shall have the right at all reasonable times to inspect the works and all records, accounts and data of the City relating thereto. Such inspections may be made by representatives duly authorized by written instrument.

Section 14. The City shall, by ordinance of the Common Council, maintain just and equitable rates or charges for the use of and the services rendered by said works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said sewage works by or through any part of the sewerage system of the City, or that in any way uses or is served by such works. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and

maintenance of the works for depreciation, and for the payment of the sums required to be paid into the Sewage Works Sinking Fund by said governing Act. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance, and depreciation, and the requirements of the Sewage Works Sinking Fund. The rates or charges so established shall apply to any and all use of such works by and services rendered to the City and all departments thereof as the charges accrue.

Section 15. The City reserves the right to authorize and issue additional bonds, payable out of the revenues of its sewage works, ranking on a parity with the bonds authorized by this ordinance, for the purpose of financing the cost of future additions, extensions and improvements to the sewage works, or to refund sewage works revenue bonds, subject to the following conditions:

(a) The interest on and principal of all bonds payable from the revenues of the sewage works shall have been paid to date in accordance with the terms thereof.

(b) All monthly deposits in the Sewage Works Sinking Fund required by this ordinance have been made.

(c) The net operating revenues of the sewage works in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the bonds authorized by this ordinance shall not be less than one hundred twenty-five per cent (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 sewage rates and charges shall be increased sufficiently so that said increased rates and charges

applied to the previous fiscal year's operations would have produced net operating revenues for said year equal to not less than one hundred twenty-five per cent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued. If the bonds proposed to be issued are to refund outstanding bonds, the parity test in this subsection shall be applied to the maximum annual principal and interest requirements of the refunding bonds and shall exclude such requirement of the bonds to be refunded. For purposes of this subsection, the records of the sewage works shall be analyzed and all showings shall be prepared by certified public accountant employed by the City for that purpose.

(d) The principal of the additional parity bonds shall be payable annually on February 1 and the interest semi-annually on February 1 and August 1 in the years in which principal and interest are payable.

Section 16. For the purpose of further safeguarding the interests of the holders of the bonds herein authorized, it is specifically provided as follows:

(a) All contracts let by the City in connection with the construction of said additions and improvements to the sewage works shall be let after due advertisement as required by laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred per cent (100%) of the amount of such contracts, to insure the completion of said contracts in accordance with their terms, and such contracts shall also be required to carry such employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State

of Indiana relating to public contracts.

(b) The works shall be constructed under the supervision and subject to the approval of Black & Veatch, or such other competent engineer as shall be designated by the Utilities Service Board. All estimates for work or material furnished shall first be checked by the engineer and approved by the Utilities Service Board.

(c) The City shall at all times maintain its sewage works in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the bonds herein authorized are outstanding, the City shall maintain insurance on the insurable parts of said works of a kind and in an amount such as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. Insurance proceeds shall be used in replacing or repairing the property destroyed or damaged; or, if not used for that purpose shall be treated and applied as net revenues of the works.

(e) So long as any of the 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 replaced equipment which may become worn out or obsolete or other property not required for the proper operation and maintenance of the works.

(f) Except as otherwise provided in Section 15 of this ordinance, 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 sewage works shall be authorized, executed or issued by the City except such as shall

be made subordinate and junior in all respects to the bonds herein authorized, unless all of the bonds herein authorized are redeemed and retired coincidentally with the delivery of such additional bonds or other obligations, or funds sufficient to effect such redemption are available and set aside for that purpose at the time of issuance of such additional bonds.

(g) The City shall take all actions or proceedings necessary and proper to require connection of all property where liquid and solid waste, sewage, night soil, or industrial waste is produced, with available sanitary sewers. The City shall, in so far as possible, cause all such sanitary sewers to be connected with said sewage works.

(h) The provisions of this ordinance shall constitute a contract by and between the City of Bloomington and the holders of the sewage works revenue bonds herein authorized, and after the issuance of said bonds this ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the holders of said bonds, nor shall the Common Council or other body of the City adopt any law, ordinance or resolution which in any way adversely affects the rights of such holders so long as any of said bonds or the interest thereon remain unpaid.

(i) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the bonds herein authorized for the uses and purposes herein set forth, and the holders of the bonds 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 Sewage Works Sinking Fund for the

uses and purposes of said fund as in this ordinance set forth. The holders 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 sewage works, in the event of default in the payment of the principal of or interest on any of the bonds herein authorized for a period of thirty (30) days, or in the event of default in respect to any of the provisions of this ordinance or the governing Act.

Section 17. If, when the bonds issued hereunder 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 for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the bonds and coupons then outstanding shall be paid; or (i) sufficient moneys, or (ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, the principal of and the interest on which when due will provide sufficient moneys, or (iii) time certificates of deposit fully secured as to both principal and interest by obligations of the kind described in (ii) above of a bank or banks the principal of and interest on which when due will provide sufficient moneys, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the bonds issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the revenues of the City's sewage works.

Section 18. All ordinances and parts of ordinances in conflict herewith are hereby repealed, but none of the provisions of this ordinance shall be so construed as adversely affecting the rights of holders of said outstanding Sewage Works Revenue Bonds of 1955 or the outstanding Sewage Works Revenue Bonds of 1968.

Section 19. This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Passed and adopted by the Common Council of the City of Bloomington, on the 1 day of March, 1978.

John F. Richardson
Presiding Officer

Attest:

Nora M. Conans
Deputy City Clerk

Presented by me to the Mayor of the City of Bloomington, on the 2 day of March, 1978, at the hour of 11 A.M.

Nora M. Conans
Deputy City Clerk

This ordinance approved and signed by me on the 6 day of March, 1978, at the hour of 9:00 A.M.

Francis V. McCloskey
Mayor

SYNOPSIS

Ordinance 78-17

Bond Ordinance Concerning the Construction of Additions and Improvements to the Sewage Works Owned and Operated by the City of Bloomington.

This ordinance authorizes the issuance by the City of \$4.6 million in revenue bonds for the construction of the Dillman Road Wastewater Treatment Plant, as recommended by the Utilities Service Board. The total cost of the plant will be \$24,955,500, with federal and state grants making up the difference in the cost.