



City of Bloomington Common Council

Legislative Packet

Regular Session

21 April 2010

Office of the Common Council
P.O. Box 100
401 North Morton Street
Bloomington, Indiana 47402

812.349.3409

council@bloomington.in.gov
<http://www.bloomington.in.gov/council>



Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

None

Legislation for Final Action:

- **Res 10-05 To Approve Application and Authorize Loan from the Business Investment Incentive Fund (Feast Bakery Café, Petitioner)**
Contact: Adam Wason at 349-3406 or wasona@bloomington.in.gov or Danise Alano at 349-3406 or alanod@bloomington.in.gov
- **Res 10-04 To Approve Conveyance of the John Waldron Arts Center**
Contact: Margie Rice at 349-3426 or ricem@bloomington.in.gov or Kevin Robling at 349-3426 or roblingk@bloomington.in.gov

Please the Legislative Packet Issued for the [14 April 2010](#) Committee of the Whole for the Legislation, Supplemental Materials and Summaries

Legislation and Background Material for First Reading:

- **Introductory Material for Ord 10-06 (Water Rates) and Ord 10-07 (Water Bonds)**
 - Memo to Council from Vickie Renfrow, Assistant City Attorney
 - Proposed Schedule of Rates
- **Ord 10-06 To Amend Title 9 of the Bloomington Municipal Code Entitled "Water" (Rate Adjustment)**
Contact: Pat Murphy at 349-91444 or murphyp@bloomington.in.gov

- **Ord 10-07** An Ordinance Concerning the Construction of Additions, Extensions and Improvements to the Waterworks of the City of Bloomington, Indiana, the Issuance of Revenue Bonds to Provide the Cost Thereof, the Collection, Segregation and Distribution of the Revenues of said Waterworks, the Safeguarding of the Interests of the Owners of said Revenue Bonds, Other Matters Connected Therewith, Including the Issuance of Notes in Anticipation of Bonds, and Repealing Ordinances Inconsistent Herewith
 - Exh A – Description of the Project(s);
 - Exh B – Form of Bond;
 - Exh C – Financial Assistance Agreement (with its own Exh A & B);
 - Exh D – Continuing Disclosure Agreement

Contact: Pat Murphy at 349-91444 or murphyp@bloomington.in.gov

Minutes from Regular Sessions and Organizational Meetings:

- 7 October 2009 - Regular Session
- 6 January 2010 - Organizational Meeting

Memo

Reminders:

- *Council Rules Committee Meets on Tuesday at Noon in the Council Library*
- *Jack Hopkins Social Services Funding Committee Meets on Thursday at 4:00 p.m. in the McCloskey Room*

Two Resolutions Ready for Final Action and Two Ordinances Ready for Introduction at the Regular Session on Wednesday, April 21st

There are two resolutions ready for final action and two ordinances ready for introduction at the Regular Session next Wednesday. The two resolutions and related materials can be found online at the link noted above. The two ordinances approve water rates and bonds and are found in this packet and summarized herein.

First Readings:

Introduction to Ord 10-06 (Water Rates) and Ord 10-07 (Water Revenue Bonds)

The two ordinances in this packet raise water rates and authorize water revenue bonds. The first, **Ord 10-06**, authorizes an increase in water rates, and the second, **Ord 10-07**, authorizes the issuance of bonds that will be supported by the higher water rates. Aside for an inflation adjustment, this package of legislation is driven by some historic investments in the water system that would both expand its capacity and provide for a second main from Lake Monroe into town. The following summary relies upon a Memo to the Council from Vickie Renfrow, Assistant City Attorney, and other material retained in the Council Office.

Schedule

Given the significance of these proposals, the Council will consider both pieces of the legislation on a special schedule. This schedule will require a motion next week after the legislation is introduced. The proposed schedule is as follows:

- First reading at the Regular Session on April 21st;
- Discussions at two consecutive Committees of the Whole – April 28th and May 12th; and
- Second Reading at a rescheduled Regular Session or Special Session on Monday, May 17th (with the understanding that further consideration at future meetings may be needed before a final vote).

Item One - Ord 10-06 - Adjustment in Water Rates and Charges

The first item, **Ord 10-06**, amends Title 9 of the Bloomington Municipal Code by increasing the rates and charges for water services. This change would amount to a 47% increase in water rates, but only an 18% increase for the users' entire utility bill, which also includes the waste water and storm water services. This is an across-the-board increase for all user classes and would mean an approximate \$8 more per month for a residential customer using between 4,000 - 6,000 gallons each month.

Components of the Rate Increase

The rate increase will raise about \$4.7 million per year. It has been presented as a series of escalating scenarios that build one upon another.

- **Scenario One – An Increase of 22% - Inflation Adjustment**

As a rate-funded entity, our utilities have no means to automatically increase revenues to account for the general rise in costs from year to year. This inflation adjustment follows rate increases in 1999, 2001 and 2005 and will raise approximately \$1.9 million per year;

- **Scenario Two – An Increase of 35% - Includes Scenario One as Well as the Construction of Infrastructure for a Second Water Main from the Lake to the City** Along with accounting for inflation, this scenario would build a second 36” main and related infrastructure to bring water from the lake to town. A second line would both provide redundancy and help with capacity when needed. Bonds in the amount of \$28 million would cover the cost of this project.

- **Scenario Three - An Increase of 47% - Includes Scenarios One and Two as Well as the Expansion of the Monroe Water Treatment Plant (Plant) Capacity from 24 mgpd to 30 mgpd**

Along with accounting for inflation and building infrastructure for a second main from the lake to town, this scenario would expand the Plant capacity from 24 million gallons per day (mgd) to 30 mgd, with the potential of 36 mgd. Two years ago the primary rationale for the expansion was to prepare for a growing population and the expected greater demand for water. More recently, a second rationale emerged relating to our aging and near-capacity water system: malfunctions at critical points in the process could jeopardize the provision of an adequate water supply until the problem was addressed (e.g. parts repaired or replaced). Bonds in the amount of \$41 million would cover the cost for these two projects.

- *Note: Road Not Taken* **An Increase of 54% - Includes Previous Scenarios as Well as the Elimination of 10 Years of Interest-Only Debt Service (and Saving \$9.5 Million)**

The ordinance proposes keeping the annual debt service for all outstanding series of the water bonds level. This will keep the impact of rates as low as possible for customers on a monthly basis, but will result in the payment of

\$9.5 million more over time. On March 24th, the USB voted to raise the rates by another 7% to lower the costs over the long term. This would have brought the rate increase to 54%. Please see the attached Proposed Rate Schedule for the effect this increase would have on each customer class and service.

Indiana Utility Regulatory Commission (IURC)

The IURC has the final authority to determine the rates and charges for our water utility and may further adjust the rates adopted by the Council. Those adjustments do not appear in our code. Ord 10-06, in fact, acknowledges that process and approves those adjustments. Once the City has sought a rate increase, it must wait at least 15 months before filing another rate request.

Change in Rates

The following paragraphs briefly summarize the changes to the various rates and charges for the various classes of customers.

Monthly Usage Charge and Service Charge. There is a monthly usage and service charge. The usage charge is based upon every 1,000 gallons of water used by each of the six types of customers. Those types of customers and their rates include:

- Residential – with rates that will increase by 47% (from \$2.14 to \$3.15);
- Commercial, governmental, and interdepartmental – with rates that will increase by 47% (from \$1.81 to \$2.66);
- Industrial – with rates that will increase by 47% (from \$1.67 to \$2.45);
- IU - master meter and non-master meter – with rates that will increase by 47% (from \$1.35 to \$1.98) and 47% (from \$1.81 to \$2.66) respectively; and,
- Irrigation – with rates that will increase by 45% (from \$1.96 to \$2.88) (*Please note that irrigation was added in 2001*).

The service charge is based upon the size of the customers' water meter which are divided into 10 sizes that range from 5/8" to 10". The charges for each size of meter will increase by about 47%. A residential tenant with a 5/8" meter, for example, would see an increase from \$3.38 to \$4.97 per month and an industrial customer with a 10" meter would see an increase from \$224.61 to 330.18 per month.

Contracts for Resale The City has agreements with several water companies who buy water to resell to their customers. These agreements include a monthly usage charge, based upon every 1,000 gallons of water used, and a monthly service charge, based upon the size of the meter, which are divided into 10 sizes ranging from 5/8” to 10”. The monthly usage charge will rise about 47% from \$1.37 to \$2.01 per 1,000 gallons of water. The monthly service charge for each size meter are the same as for non-contract sales (see above).

Monthly Fire Protection Surcharge and Private Fire Line Charge

The fire protection surcharge covers the cost of providing water via hydrants to the area serviced by the utility and, except for the I.U. Master Meter account, is based upon the size of the water meter and whether it is located inside or outside of the City’s boundaries. You will note that customers inside the City pay a lower rate than customers outside of the City, and that I.U. pays a flat rate for the master metered account. The proposed adjustments will increase of about 47% for each of these three classes of customers.

The charge for private fire lines is based upon the size of the line and will also increase by about 47%.

Item Two - Ord 10-07 - Authorizing Issuance of Water Works Revenue Bonds for Up to \$42 Million

The second item to be introduced for first reading on April 21st is **Ord 10-07**, which approves the issuance of up to \$42 million in waterworks revenue bonds for the capital improvements to our water system mentioned earlier in this memo. This breaks down into about \$36.3 million for the capital improvements, about \$4.1 million for debt service reserve, and \$713,000 for bond issuance costs.

Capital Improvements

The improvements are listed in Exhibit A, which is attached to the ordinance, and elaborated in Plans and Specifications, which will be on file with the City Clerk before the ordinance is introduced. In brief, they include:

- **Installing a Second Main from the Lake and Related Infrastructure** – Along with the transmission mains from the lake to the Plant and from the

Plant to the City, this involves installing a new 12 mgd pump station (which is expandable to 24 mgd) and a two million gallon ground storage tank;

- **Expanding the Plant from 24 mgd to 30 mgd with a Potential Capacity of 36 mgd** - This includes upgrading the “intake facility pump, parshall flume/finished water reservoir, flocculation/sedimentation basin (12mgd), filter building, air/water backwash system, filter-to-waste system, high service pump station ... (as well as making) chemical feed system improvements, transfer pump station improvements, electrical substation upgrades (plant and intake) and (performing) site work.”

Bond Ordinance

The ordinance is a long and very technical document that sets forth the procedures and the assurances necessary for the relevant financial interests to engage in this \$42 million dollar transaction. The following paragraphs categorize and highlight the provisions of the ordinance. In brief, the ordinance:

Amount and Purpose of the Bonds (with Accompanying Documents)

- Authorizes the City to sell a maximum of \$42 million in bonds;
- Attaches Exhibit A, which sets forth the list of improvements;
- Incorporates by reference the plans and specifications for these improvements, which will be available in the Clerk's Office before the ordinance is introduced;

Kinds of Bonds, Limits on Interest and Maturity, Relationship with Outstanding Bonds, and Life Cycle of Bonds

- Authorizes bonds with a maximum interest rate of 8 % per year and maximum maturity period of no more than 20 years after completion of the project;
- Authorizes the issuance of Bond Anticipation Notes (BANs provide money prior to sale of bonds) at an interest rate of no more than 8 % and a maturity date, with extensions, of no more than 5 years after initial date of delivery of these financial instruments;
- Authorizes issuance of Drinking Water State Revolving Loan Fund bonds and acknowledge the need for approval of Financial Assistance Agreement (FAA) with the State;
- Acknowledges outstanding bonds (2000, 2003, 2003A, 2003B and 2006A) with a total outstanding obligation of \$28.87 million with maturity dates ranging from January, 2012 to January, 2027 and provides for the new bonds to be issued in parity with the outstanding ones;
- Authorizes Municipal Bond Insurance (which may help lower rates);

- Sets forth procedures for issuing, holding, transferring, and redeeming the BANs and bonds;

Safeguarding Bondholders

- Requires the separation of funds into various accounts and prescribes the uses and minimum balances of these accounts;
- Requires the utility to set reasonable, just, and equitable rates and charges sufficient to cover its operations as well as reserve amounts slightly in excess of annual debt service and related obligations;
- Allows the bond holders to appoint a receiver in the event of default or other adverse actions on the part of the City;
- Allows for the issuance of further bonds and BANs on certain conditions;
- Prohibits the City from amending the ordinance in a manner that adversely affects bond holders without obtaining consent of owners of at least 66 2/3% of the principle;
- Requires the City to preserve the tax exempt status of the bonds by not using more than a small percentage of the funds for private purposes; and
- Repeals portions of any previous ordinances that are inconsistent with these provisions.

Exhibits

- Exhibit A: Project Summary
- Exhibit B: Form of the Bond
- Exhibit C: Financial Assistance Agreement (for State Revolving Loan Fund bonds) with Request for Disbursement, Description of the Project (Exh A), and Principal Payment Schedule (Exh B);
- Exhibit D: Continuing Disclosure Undertaking Agreement

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, APRIL 21, 2010
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

I. ROLL CALL

II. AGENDA SUMMATION

- III. APPROVAL OF MINUTES FOR:** October 7, 2009 (Regular Session)
 January 6, 2010 (Organizational Meeting)

- IV. REPORTS FROM:**
- 1. Councilmembers**
 - 2. The Mayor and City Offices**
 - 3. Council Committees**
 - 4. Public**

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Resolution 10-05 To Approve Application and Authorize Loan from the Business Investment Incentive Fund (Feast Bakery Café, Petitioner)

Committee Recommendation: Do Pass 8 – 0 – 0

2. Resolution 10-04 To Approve Conveyance of the John Waldron Arts Center

Committee Recommendation: Do Pass 6 – 0 – 2

VII. LEGISLATION FOR FIRST READING

1. Ordinance 10-06 To Amend Title 9 of the Bloomington Municipal Code Entitled “Water” (Rate Adjustment)

2. Ordinance 10-07 An Ordinance Concerning the Construction of Additions, Extensions and Improvements to the Waterworks of the City of Bloomington, Indiana, the Issuance of Revenue Bonds to Provide the Cost Thereof, the Collection, Segregation and Distribution of the Revenues of said Waterworks, the Safeguarding of the Interests of the Owners of said Revenue Bonds, Other Matters Connected Therewith, Including the Issuance of Notes in Anticipation of Bonds, and Repealing Ordinances Inconsistent Herewith

VIII. PRIVILEGE OF THE FLOOR (This section of the agenda will be limited to 25 minutes maximum, with each speaker limited to 5 minutes)

IX. ADJOURNMENT



**City of Bloomington
Office of the Common Council**

To: Council Members
From: Council Office
Re: Calendar for the Week of April 19-24, 2010

Monday, April 19, 2010

12:00 noon Bloomington Entertainment and Arts District Advisory Committee, McCloskey
5:30 pm Bicycle and Pedestrian Safety Commission, Hooker Room

Tuesday, April 20, 2010

12:00 noon Common Council Rules Committee, Council Library
4:00 pm Board of Public Safety, McCloskey
4:30 pm Community and Family Resources Commission, Hooker Room
5:30 pm Animal Control Commission, McCloskey

Wednesday, April 21, 2010

9:30 am Tree Commission, Rose Hill Cemetery Office, 930 W 4th Street
11:00 am Board of Public Works Special Meeting, Council Chambers
2:00 pm Hearing Officer, Kelly
5:30 pm Bloomington Community Arts Commission, McCloskey
7:00 pm Council of Neighborhood Associations, Hooker Room
7:30 pm Common Council Regular Session, Council Chambers

Thursday, April 22, 2010

4:00 pm Jack Hopkins Social Services Funding Initial Review of Applications, McCloskey
5:30 pm Board of Zoning Appeals, Council Chambers

Happy Earth Day!

Please consult the City's website for a list of Earth Day events. www.bloomington.in.gov/earthweek

Friday, April 23, 2010

12:00 noon Common Council Internal Work Session, McCloskey

Saturday, April 24, 2010

8:00 am Bloomington Community Farmers' Market, Showers Common, 401 N. Morton

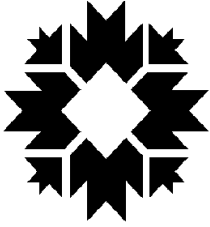
Ord 10-06 To Amend Title 9 of the Bloomington Municipal Code Entitled "Water" (Rate Adjustment)

Ord 10-07 An Ordinance Concerning the Construction of Additions, Extensions and Improvements to the Waterworks of the City of Bloomington, Indiana, the Issuance of Revenue Bonds to Provide the Cost Thereof, the Collection, Segregation and Distribution of the Revenues of said Waterworks, the Safeguarding of the Interests of the Owners of said Revenue Bonds, Other Matters Connected Therewith, Including the Issuance of Notes in Anticipation of Bonds, and Repealing Ordinances Inconsistent Herewith

Introductory Materials

Memo to Council from Vickie Renfrow, Assistant City Attorney

Proposed Schedule of Rates



**CITY OF BLOOMINGTON
LEGAL DEPARTMENT
MEMORANDUM**

TO: City of Bloomington Common Council Members

FROM: Vickie Renfrow, Assistant City Attorney

RE: Ordinance 10-06 authorizing Waterworks Utility rate increase
Ordinance 10-07 authorizing Waterworks Utility bond issuance

DATE: April 16, 2010

Ordinance 10-06 (the “Rate Ordinance”) must be approved by Council in order to move forward with filing a water rate adjustment case with the Indiana Utility Regulatory Commission (IURC) for its consideration. Ordinance 10-06 authorizes an across-the-board increase of 47% for all rates and charges of the Waterworks Utility. To be clear, the increase then only applies to the water portion of customers’ bills. As applied to the average customer’s bill, this new rate represents an approximate 18% increase. The City Administration has stated support for this approach, but it also strongly prefers that the rate increase be staggered over at least a two year period in order to cushion the impact on customers. Of this increase approximately 22% will produce revenue sufficient to meet on-going operation and maintenance expenses and make present debt service payments and other on-going obligations, and the remaining 25% will be used to make capital improvements to the Waterworks system and cover the debt service payments and other costs associated with making those improvements. The planned capital improvements include:

1. Southeast Water System Improvements including pump station (12 mgd expandable to 24 mgd), ground storage tank (2MG) and transmission mains.
2. Monroe Water Treatment Plant expansion including intake facility pump upgrade, parshall flume/finished water reservoir, flocculation/sedimentation basin (12mgd), filter building, air/water backwash system, filter-to-waste system, high service pump station, chemical feed system improvements, transfer pump station improvements, electrical substation upgrade (plant and intake) and site work.

Council approval of Ordinance 10-07 (the “Bond Ordinance”) is required for the CBU Waterworks utility to go forward with issuing bonds to complete the planned capital construction projects once approval is obtained from the IURC. The bulk of this lengthy ordinance is dedicated to stating terms and conditions which are required to satisfy the requirements of the

IRS for tax-exempt municipal bonds, the State Revolving Loan Fund (“SRF”) for low interest bond issuances, and the bond market generally to assure that the bonds can be sold for the best terms possible to the utility. For example, Exhibit C to the bond ordinance entitled “Form of Financial Assistance Agreement” is required by the State as it contains the terms for obtaining SRF financing (if that should turn out to be a viable option), and Exhibit D entitled “Form of Continuing Disclosure Undertaking Agreement” is required by the SEC to satisfy its requirement for regular reporting of certain financial data. The total bond authorization sought is a maximum of \$42,000,000 (it could end up being less than this, but not more without further Council approval) which includes the cost of the projects listed above plus additional funds for contingencies, debt service reserve funding and costs of issuance. The total figure and the terms of the Bond Ordinance were determined by CBU’s financial advisor in consultation with its bond counsel. They have worked closely with CBU to ensure that all legal and fiscal requirements are met and that CBU’s petition to the IURC for both the rate adjustment and bond authorization will be favorably received.

Once the Bond Ordinance is approved by the Council it will go to the IURC along with the Rate Ordinance for final approval. If you have any questions regarding either of these ordinances, please feel free to contact me by calling City Legal at 349-3426 or e-mailing me at renfrowv@bloomington.in.gov.

BLOOMINGTON MUNICIPAL WATER UTILITY

Bloomington, Indiana

Schedule of Present and Proposed Rates and Charges

	Present Rates (1)	47% Proposed Rates	54% Proposed Rates
<u>Monthly Usage Charge (Per 1,000 Gallons)</u>			
Residential	\$ 2.14	\$ 3.15	\$ 3.30
Commercial, Governmental, Interdepartmental	1.81	2.66	2.79
Industrial	1.67	2.45	2.57
Indiana University - Master Metered	1.35	1.98	2.08
Indiana University - Non-Master Metered	1.81	2.66	2.79
Irrigation	1.96	2.88	\$ 3.02
 <u>Contract Sales for Resale Monthly Usage Charge</u> <u>(Per 1,000 Gallons)</u>			
	\$ 1.37	\$ 2.01	\$ 2.11
 <u>Monthly Service Charge (in addition to</u> <u>Monthly Usage Charge)</u>			
5/8 inch meter	\$ 3.38	\$ 4.97	\$ 5.21
3/4 inch meter	4.50	6.62	6.93
1 inch meter	6.06	8.91	9.33
1 1/2 inch meter	10.53	15.48	16.22
2 inch meter	15.00	22.05	23.10
3 inch meter	34.67	50.96	53.39
4 inch meter	57.01	83.80	87.80
6 inch meter	112.88	165.93	173.84
8 inch meter	168.75	248.06	259.88
10 inch meter	224.61	330.18	345.90

(1) Present Rates and Charges were approved by the Indiana Utility Regulatory Commission on November 22, 2005.

BLOOMINGTON MUNICIPAL WATER UTILITY

Bloomington, Indiana

Schedule of Present and Proposed Rates and Charges

	<u>Present Rates (1)</u>	<u>47% Proposed Rates</u>	<u>54% Proposed Rates</u>
<u>Monthly Public Fire Protection Charge - Inside City (excluding Indiana University - Master Metered)</u>			
5/8 inch meter	\$ 1.12	\$ 1.65	\$ 1.72
3/4 inch meter	1.68	2.47	2.59
1 inch meter	2.80	4.12	4.31
1 1/2 inch meter	5.60	8.23	8.62
2 inch meter	8.96	13.17	13.80
3 inch meter	19.60	28.81	30.18
4 inch meter	33.60	49.39	51.74
6 inch meter	70.01	102.91	107.82
8 inch meter	100.81	148.19	155.25
10 inch meter	162.42	238.76	250.13
<u>Monthly Public Fire Protection Charge - Outside City (excluding Indiana University - Master Metered)</u>			
5/8 inch meter	\$ 1.88	\$ 2.76	\$ 2.90
3/4 inch meter	2.82	4.15	4.34
1 inch meter	4.71	6.92	7.25
1 1/2 inch meter	9.40	13.82	14.48
2 inch meter	15.05	22.12	23.18
3 inch meter	32.92	48.39	50.70
4 inch meter	56.42	82.94	86.89
6 inch meter	117.56	172.81	181.04
8 inch meter	169.27	248.83	260.68
10 inch meter	272.72	400.90	419.99
<u>Monthly Fire Protection Charge - Indiana University - Master Metered</u>	\$1,027.55	\$ 1,510.50	\$ 1,582.43
<u>Monthly Private Fire Protection Charge (per connection)</u>			
4 inch line or smaller	\$ 5.65	\$ 8.31	\$ 8.70
6 inch line	15.69	23.06	24.16
8 inch line	32.15	47.26	49.51
10 inch line	56.31	82.78	86.72
12 inch line	88.78	130.51	136.72

(1) Present Rates and Charges were approved by the Indiana Utility Regulatory Commission on November 22, 2005.

ORDINANCE 10-06

**TO AMEND TITLE 9
OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED “WATER”
(Rate Adjustment)**

WHEREAS, the City of Bloomington, Indiana (“City”) owns and operates a waterworks system, through its Utilities Service Board, pursuant to IC 8-1.5-2 and -3, as amended (“Act”), which waterworks system is subject to the jurisdiction of the Indiana Utility Regulatory commission (“Commission”); and,

WHEREAS, the current rates and charges of the waterworks system of the City were established by the order of the Commission in Cause No. 42858 on November 22, 2005; and,

WHEREAS, the Utilities Service Board has recommended that additional improvements be made to the waterworks, including an expansion of the water treatment plant and construction of a water transmission main to transport water from the water treatment plant to the City; and,

WHEREAS, the Utilities Service Board, upon consideration of the study prepared by Crowe Horwath, LLP, has recommended that the Common Council approve an increase in the rates and charges of the waterworks to provide income sufficient to pay the debt service on the proposed financing of the additions and improvements to the waterworks and otherwise provide for the revenue requirements set forth in the Act, specifically IC 8-1.5-3-8; and,

WHEREAS, based upon the aforementioned study, the Common Council of the City finds that the rates and charges of the waterworks system of the City should be increased as set forth herein, so as to produce sufficient revenues to meet the requirements of the Act, and supports the City Administration's preference that the rate increase be staggered over at least a two year period in order to cushion the impact on customers;

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

SECTION I. Section 9.08.010 of the City Code of Bloomington (“Code”), entitled “Monthly rates generally” is hereby amended and restated as follows:

The following rates and charges are established for the use of and service rendered by the water utility of the city. The schedule of rates and charges for the use of the water utility as set forth in this chapter reflects the rates and charges of the water utility as adopted by ordinance of the Common Council of the City and may not necessarily reflect the actual rates and charges of the water utility, which are subject to the approval of the Indiana Utility Regulatory commission (“Commission”). The actual rates and charges of the water utility as approved by the Commission are set forth in the most recent tariff of the water utility on file with the Commission and the Clerk of the City and open for public inspection. Appropriate Indiana Sales Tax will also apply to billings for customers that are not tax-exempt. Each customer will pay a monthly charge according to the following schedule:

Monthly Usage Charge Applicable to Residential, Commercial, Governmental, Interdepartmental, Industrial, Indiana University -- Master Metered, Indiana University -- Non-Master Metered, and Irrigation Classes.

Category	Rate Per 1,000 Gallons
Residential	\$ 3.15
Commercial, Governmental, Interdepartmental	2.66
Industrial	2.45
Indiana University -- Master Metered	1.98

Indiana University -- Non-Master Metered	2.66
Irrigation	2.88

Monthly Service Charge, in Addition to Monthly Usage for the Customer Categories Listed Above.

Meter Size	Charge	Meter Size	Charge
5/8"	\$ 4.97	3"	\$ 50.96
3/4"	6.62	4"	83.80
1"	8.91	6"	165.93
1 1/2"	15.48	8"	248.06
2"	22.05	10"	330.18

Monthly Surcharges for Fire Protection Service for the customer categories listed above excluding Indiana University – Master Metered.

Meter Size	Charge Inside City	Charge Outside City	Meter Size	Charge Inside City	Charge Outside City
5/8"	\$ 1.65	\$ 2.76	3"	\$ 28.81	\$ 48.39
3/4"	2.47	4.15	4"	49.39	82.94
1"	4.12	6.92	6"	102.91	172.81
1 1/2"	8.23	13.82	8"	148.19	248.83
2"	13.17	22.12	10"	238.76	400.90

The monthly Fire Protection Charge for Indiana University – Master Metered accounts as a group shall be \$1,510.50.

SECTION II. Section 9.08.020 of the Code, entitled “Contract sales for resale” is hereby amended and restated as follows:

The rate for contract sales for resale shall be \$2.01 per one thousand gallons.

Monthly Service Charge in Addition to Monthly Usage Charge.

Meter Size	Charge	Meter Size	Charge
5/8"	\$ 4.97	3"	\$ 50.96
3/4"	6.62	4"	83.80
1"	8.91	6"	165.93
1 1/2"	15.48	8"	248.06
2"	22.05	10"	330.18

SECTION III. Section 9.08.040 of the Code, entitled “Private fire connections per connection” is hereby amended and restated as follows:

Line Size	Monthly	Annually
4" and under	\$ 8.31	\$ 99.72
6"	23.06	276.72
8"	47.26	567.12
10"	82.78	993.36
12"	130.51	1,566.12

SECTION IV. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that the existing rates and charges of the waterworks system of the City shall remain in full force and effect until the rates and charges fixed by this ordinance shall be approved by order of the Commission and the tariff reflecting said approved rates and charges shall have been filed with and approved by the Commission.

SECTION V. In the event the rates and charges of the waterworks system approved by the Commission shall differ from the rates and charges set forth herein, the Common Council hereby approves said rates and charges as adjusted by the Commission without further action of the Common Council. The rates and charges of the waterworks system of the City as reflected in the

tariff filed with and approved by the Commission shall be filed with the Clerk of the City and be open for public inspection.

SECTION VI. If any section, sentence, or provision of this ordinance or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

SECTION VII. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City and approval of the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2010.

ISABEL PIEDMONT-SMITH, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2010.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2010.

MARK KRUZAN, Mayor
City of Bloomington

Synopsis

This ordinance amends the rates and charges included in Title 9 of the Bloomington Municipal Code, entitled "Water", to reflect increased costs of supplying water and services to customers, and to make debt service payments on bond financing for required capital improvements.

ORDINANCE 10-07

An Ordinance Concerning the Construction of Additions, Extensions and Improvements to the Waterworks of the City of Bloomington, Indiana, the Issuance of Revenue Bonds to Provide the Cost Thereof, the Collection, Segregation and Distribution of the Revenues of said Waterworks, the Safeguarding of the Interests of the Owners of said Revenue Bonds, Other Matters Connected Therewith, Including the Issuance of Notes in Anticipation of Bonds, and Repealing Ordinances Inconsistent Herewith

- WHEREAS, the City of Bloomington, Indiana (“City”) has heretofore established, constructed and financed its waterworks, and now owns and operates said waterworks pursuant to IC 8-1.5-2 and -3, as in effect on the issue date of the bonds authorized herein, and other applicable laws (“Act”); and
- WHEREAS, the Common Council of the City (“Common Council”) finds that certain additions, extensions and improvements to said waterworks are necessary; that plans, specifications and estimates have been or will be prepared and filed by the engineers employed by the City for the construction of said additions, extensions and improvements (as more fully set forth in summary fashion in Exhibit A attached hereto and made a part hereof) (“Project”), which plans and specifications have been or will be submitted to all governmental authorities having jurisdiction and have been or will be approved by the aforesaid governmental authorities and are incorporated herein by reference and are or will be open for inspection at the Office of the Clerk as required by law; and
- WHEREAS, the City has obtained engineers' estimates of the costs for the construction of the Project; will advertise for and receive bids for the Project; said bids will be subject to the City's determination to construct said Project and subject to the City obtaining funds to pay for said Project; that on the basis of said engineers' estimates, the cost of said Project, including estimated incidental expenses, is in the estimated amount of Thirty-Six Million Three Hundred Thousand Dollars (\$36,300,000); and
- WHEREAS, the Common Council finds that it is necessary to finance the remaining costs of the Project by the issuance of waterworks revenue bonds, in one or more series, in an aggregate amount not to exceed Forty-Two Million Dollars (\$42,000,000) and, if necessary, bond anticipation notes (“BANs”); and
- WHEREAS, the Common Council finds that there are now outstanding bonds payable out of the Net Revenues (as hereinafter defined) of the City's waterworks designated as (i) the Waterworks Revenue Bonds of 2000, Series A (“2000 Bonds”), dated June 23, 2000, originally issued in the aggregate principal amount of \$10,850,000, now outstanding in the aggregate principal amount of \$10,071,000 and maturing semiannually on January 1 and July 1 over a period ending on January 1, 2021; (ii) the Waterworks Revenue Bonds of 2003, Series A (“2003A Bonds”), dated April 18, 2003, originally issued in the aggregate principal amount of \$4,215,000, now outstanding in the aggregate principal amount of \$3,096,000 and maturing semiannually on January 1 and July 1 over a period ending on January 1, 2023; (iii) the Waterworks Refunding Revenue Bonds of 2003 (“2003 Refunding Bonds”), dated July 23, 2003, originally issued in the aggregate principal amount of \$10,220,000, now outstanding in the aggregate principal amount of \$4,440,000 and maturing semiannually on January 1 and July 1 over a period ending on January 1, 2020; (iv) the Waterworks Revenue Bonds of 2003, Series B (“2003B Bonds”), dated September 5, 2003, originally issued in the aggregate principal amount of \$7,885,000 and now outstanding in the aggregate principal amount of \$6,483,000 and maturing semiannually on January 1 and July 1 over a period ending on

January 1, 2025; and (v) the Waterworks Revenue Bonds of 2006, Series A (the “2006 Bonds”), dated May 4, 2006, originally issued in the aggregate principal amount of \$5,320,000 and now outstanding in the aggregate principal amount of \$4,775,000 and maturing semiannually on January 1 and July 1 over a period ending on January 1, 2027, which 2000 Bonds, 2003A Bonds, 2003 Refunding Bonds, 2003B Bonds and 2006 Bonds (collectively, “Outstanding Bonds”) rank on a parity and constitute a first charge on the Net Revenues of the waterworks; and

WHEREAS, the ordinances authorizing the Outstanding Bonds each authorize the issuance of additional bonds ranking on a parity with the Outstanding Bonds provided certain financial conditions can be met (“Parity Tests”); and

WHEREAS, the Common Council finds that the Parity Tests can be met with respect to the bonds to be issued pursuant to this ordinance and, accordingly, the bonds to be issued pursuant to this ordinance will constitute a first charge against the Net Revenues of the waterworks, on a parity with the Outstanding 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, the City desires to authorize the issuance of BANs hereunder, in one or more series, if necessary, payable solely from the proceeds of waterworks revenue bonds issued hereunder and to authorize the refunding of said BANs, if issued; and

WHEREAS, the Common Council has been advised by its financial advisor that it may be economically efficient to acquire a municipal bond insurance policy (“Bond Insurance”) for the bonds hereby authorized and to acquire a debt service reserve surety bond (“Surety Bond”) to fund the reserve for the bonds hereby authorized; and

WHEREAS, prior to the issuance of the bonds authorized by this ordinance, the City shall first obtain the approval of the Indiana Utility Regulatory Commission (“IURC”) for the issuance of said bonds; and

WHEREAS, if any of the bonds authorized by this ordinance will be sold to the Indiana Finance Authority (the “Authority”) as part of the Indiana State Drinking Water Revolving Loan Fund Program established and existing pursuant to IC 4-4-11 and IC 13-18-21 (“DWSRF Program”), the City will enter into a Financial Assistance Agreement with the Authority pertaining to the Project and the financing thereof (“FAA”); and

WHEREAS, the Utilities Service Board of the City (“USB”) has approved the Project and has recommended the Common Council approve the same by the adoption of this ordinance; and

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

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

SECTION 1. Authorization of Project. The City shall proceed with the construction of the Project in accordance with the plans and specifications heretofore prepared or to be prepared and filed by the engineers employed by the City, which plans and specifications are hereby adopted and approved and by reference made a part of this ordinance. Two copies of the plans and specifications are now on file or will subsequently be placed on file in the office of the Clerk of the City and open for public inspection pursuant to IC 36-1-5-4. The estimated cost of construction of said Project is expected to be \$36,300,000,

plus investment earnings on the BAN and bond proceeds. 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 Drinking Water System, as defined in the ordinance authorizing the 2003 Refunding Bonds, and includes the existing waterworks system 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; provided that if the bonds or BANs are purchased pursuant to the FAA such terms as used herein shall mean the Drinking Water System as defined in the FAA. The Project shall be constructed in accordance with the plans and specifications heretofore mentioned, which Project is hereby approved. Said Project shall be constructed, and the BANs and bonds herein authorized shall be issued, all pursuant to and in accordance with the Act.

SECTION 2. Issuance of BANs. The City shall issue, if necessary, its BANs, in one or more series, for the purpose of procuring interim financing to apply on the cost of the Project. The City may issue its BANs in an aggregate amount not to exceed Forty-Two Million Dollars (\$42,000,000) to be designated “Waterworks Bond Anticipation Notes, Series _____”, to be completed with the appropriate series designation. Each series of BANs shall be sold at not less than 1% of their par value, numbered consecutively from 1 upward, shall be in multiples of One Thousand Dollars (\$1,000) as designated in the purchase agreement for said BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed 8% per annum (the exact rate or rates to be determined through negotiations with the purchaser of the BANs) payable either upon maturity or redemption. The BANs will mature no later than one year after their date of delivery. The BANs are subject to renewal or extension, without further action of the Common Council, at an interest rate or rates not to exceed 8% per annum (the exact rate or rates to be negotiated with the purchaser of the BANs). The term of the BANs and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof. The BANs may be payable in installments and may be issued pursuant to the book-entry provisions set forth in Section 7 hereof.

The BANs shall be issued pursuant to IC 13-18-21 if sold to the DWSRF Program, pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank 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. Interest on the BANs shall be calculated according to a 360-day calendar year containing twelve 30-day months.

SECTION 3. Issuance of Bonds. The City shall issue its waterworks revenue bonds, in one or more series, in the aggregate principal amount not to exceed Forty-Two Million Dollars (\$42,000,000) to be designated “Waterworks Revenue Bonds of 20___, Series _____,” to be completed with the appropriate year and series designation (“Bonds”). The Bonds shall be issued for the purpose of procuring funds to apply on the cost of said Project, refunding the BANs, if issued, and issuance costs, including the costs of Bond Insurance and a Surety Bond, if acquired. If the Bonds are sold in more than one series, the sale and issuance of any series of Bonds which follows the issuance and sale of the first series of Bonds hereunder shall be subject to the requirements established by Section 24 and 25(f) of this ordinance.

The Bonds shall be issued in fully registered form, numbered consecutively from one (1) upward and shall bear interest at a rate or rates not exceeding 8% per annum (the exact rate or rates to be determined by bidding or by negotiation with the DWSRF Program or by negotiation with the Indiana Bond Bank). For any series of Bonds sold to the DWSRF Program, said Bonds shall be (i) issued and sold at a price not less than the par value thereof; (ii) issued in denominations of \$1 or integral multiples thereof; and (iii) be originally dated as of the date of delivery thereof. For any series of Bonds sold to a purchaser other than the DWSRF Program, said Bonds shall be (i) issued and sold at a price not less than 99% of the par value thereof or 97.5% of the par value if sold to the Indiana Bond Bank; (ii) issued in denominations of \$5,000 or integral multiples thereof; and (iii) be originally dated as of first day of the month in which delivered or sold, or the

date of delivery thereof as determined by the Controller with the advice of the City's financial advisor. Interest on the Bonds shall be payable semiannually on January 1 and July 1 in each year, commencing on the first January 1 or the first July 1 following the date of delivery of the Bonds, as determined by the Controller with the advice of the City's financial advisor. 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), and such Bonds shall mature semiannually on January 1 and July 1, or be subject to mandatory sinking fund redemption on January 1 and July 1, over a period ending no later than 20 years after substantial completion of the Project for any series of the Bonds. Each series of Bonds shall mature in such amounts that will either (i) produce as level annual debt service as practicable taking into account the denominations of the Bonds; (ii) produce as level annual debt service as practicable taking into account the denominations of the Bonds and the annual debt service on the Outstanding Bonds and any other series of Bonds previously issued hereunder; or, if the Bonds are sold to the DWSRF Program, (iii) produce such level of annual debt service as may be required by the DWSRF Program and as set forth in the FAA for the Bonds.

The Bonds will be payable solely out of and constitute a first charge against the Net Revenues (herein defined as gross revenues of the waterworks of the City after deduction only for the payment of the reasonable expenses of operation and maintenance) of the waterworks of the City, on a parity with the Outstanding Bonds. Interest on the Bonds shall be calculated according to a 360-day calendar year containing twelve 30-day months.

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

Any reference herein to the DWSRF Program as the purchaser of any series of Bonds shall be deemed to include circumstances wherein the Authority (or any other nominal owner of the Bonds) is the registered owner of the Bonds for the benefit of the DWSRF Program.

The City may receive payment for the Bonds and BANs in installments. With respect to any Bonds sold to the Authority as part of the DWSRF 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 Indiana Department of Environmental Management and the Authority), as of the date no additional amounts may be drawn under the FAA, the remaining Bond maturities shall be reduced in a manner that will effect as level debt service as practicable for such remaining maturities and in a manner consistent with how the initial maturities were fixed, provided however such shall in any case be consistent with the FAA.

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

series of Bonds and the BANs of each series of BANS issued hereunder (including any modification made pursuant to the authorization in this paragraph to the form of Bond or BAN otherwise contained herein).

SECTION 4. Registrar and Paying Agent. The USB is 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 (“Registrar” or “Paying Agent”). The Director of the City of Bloomington Utilities 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 Director of the City of Bloomington Utilities 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 Waterworks Sinking Fund 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 the DWSRF Program or any other purchaser that does not object to such designation, the Controller may serve as Registrar and Paying Agent and in such case is charged with the duties of a Registrar and Paying Agent.

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

For all other Bonds 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 date (“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).

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.

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.

Interest on Bonds sold to the DWSRF Program shall be paid from the date or dates which are set forth in the FAA. 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.

SECTION 5. Redemption of BANs. The BANs are prepayable by the City, in whole or in part, on any date, upon seven (7) days' notice to the owner of the BANs, without any premium.

SECTION 6. Redemption of Bonds. The Bonds of this issue are redeemable at the option of the City, but no sooner than ten (10) years after their date of delivery on sixty (60) days' notice if sold to the DWSRF Program and on thirty (30) days' notice if sold to any other purchaser, in whole or in part, in inverse order of maturity if sold to the DWSRF Program or in the order of maturity as determined by the City if sold to any other purchaser, 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. The exact redemption dates and premiums shall be established by the Clerk, with the advice of the City's financial advisor, prior to the sale of the Bonds.

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 of the same series 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.

Each denomination of Bonds shall be considered a separate bond for purposes of optional and mandatory redemption. If less than an entire maturity of a series of Bonds 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 either case, notice of redemption shall be given not less than sixty (60) days, if the Bonds are sold to the DWSRF 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 DWSRF 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.

SECTION 7. Book-Entry Provisions. The City may, upon the advice of its financial advisor, have any series of the Bonds held by a central depository system pursuant to an agreement between the City and The Depository Trust Company, New York, New York ("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 provision shall apply.

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.

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 30 days' notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law), or

(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.

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.

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.

SECTION 8. Execution of Bonds and BANs; Pledge of Net Revenues to Bonds. The BANs and Bonds shall be signed in the name of the City by the manual or facsimile signature of the Mayor, countersigned by manual or facsimile signature of the Controller, and attested by the manual or facsimile signature of 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. The Bonds must be authenticated by an authorized officer of the Registrar. In case any officer whose signature or facsimile signature appears on the Bonds shall cease to be such officer before the delivery of the Bonds, 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, 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 waterworks of the City, on a parity with the Outstanding Bonds. The City shall not be obligated to pay said Bonds 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 9. Form of Bonds. The form and tenor of the Bonds shall be substantially as set forth on Exhibit B attached hereto and incorporated herein by reference, all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery thereof.

SECTION 10. Preparation and Sale of BANs and Bonds. 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 1% of the face value of said BANs, not less than 100% of the face value of said Bonds if sold to the DWSRF Program, and not less than 1% of the face value of said Bonds if sold to another purchaser, as the case may be, plus accrued interest, if any. 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 City's waterworks 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.

SECTION 11. Official Statement; Bond Insurance; Surety Bond. (a) If any series of Bonds is sold to a purchaser other than the DWSRF Program or the Indiana Bond Bank, distribution of an Official Statement (preliminary and final) prepared by Crowe Horwath LLP, on behalf of the City, is hereby approved and the Mayor, the Controller or the Clerk is hereby authorized and directed to execute such Official Statement on behalf of the City in a form consistent with this ordinance. The Mayor, the Controller or the Clerk is hereby authorized to designate the preliminary Official Statement as "nearly final" for purposes of Rule 15c2-12 as promulgated by the Securities and Exchange Commission and as in effect on the date of issue of the Bonds ("Rule").

(b) If any series of Bonds is sold to the DWSRF Program or the Indiana Bond Bank, the City shall receive an investment letter from the DWSRF Program which satisfies any applicable state and federal securities laws. As an alternative to the preparation and distribution of an Official Statement as set forth in paragraph (a) above, the City may accept from any purchaser of the Bonds an investment letter which satisfies any applicable state and federal securities laws.

(c) In the event the financial advisor to the City certifies to the City that it would be economically advantageous for the City to obtain Bond Insurance for any series of the Bonds, the City hereby authorizes the purchase of such Bond Insurance. In such case, the Mayor, the Controller, the Clerk and the Director of the City of Bloomington Utilities 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 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.

(d) A Surety Bond may be purchased by the City to satisfy (with such being determined at the time of purchase of such Surety Bond), in whole or in part, the Debt Service Reserve Account for any series of Bonds issued under this ordinance, provided that the City shall obtain the consent of the DWSRF Program if the DWSRF Program is the then current holder of any of the Bonds or any of the Outstanding Bonds. The Mayor,

the Controller, the Clerk or the Director of the City of Bloomington Utilities is hereby authorized to execute and deliver the necessary agreements with the provider of the Surety Bond providing for, among other matters, the reimbursement to such provider of amounts drawn under the Surety Bond. Each of these officials are hereby authorized and directed to complete, execute and attest any agreement pertaining to such a Surety Bond on behalf of the City so long as its provisions are consistent with this ordinance. The cost of obtaining a 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 waterworks.

SECTION 12. Bond Sale Notice. If any series of Bonds will be sold at a competitive sale, the Controller shall cause to be published either (i) a notice of such sale in *The Herald-Times*, the only 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-Times* and the *Court & Commercial Record*, all in accordance with IC 5-1-11 and IC 5-3-1. A notice of sale may also be published one time in the *Court & Commercial Record*, and a notice or summary notice of sale 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, financial surety bond or other instrument acceptable to the City, in an amount equal to 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, financial surety bond or other instrument, 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) or one-twentieth (1/20) of one percent (1%). The rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid or bid for less than 98.5% of the face amount of the Bonds will be considered. The opinion of Bingham McHale LLP, bond counsel of Indianapolis, Indiana, approving the legality of said Bonds, will be furnished to the purchaser at the expense of the City.

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. 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.

As an alternative to competitive sale, the Controller may negotiate the sale of any series of the Bonds to the DWSRF Program or the Indiana Bond Bank. The Mayor and the Controller are hereby authorized to (i) submit an application to the DWSRF Program or the Indiana Bond Bank, (ii) negotiate and execute a purchase agreement with the Indiana Bond Bank with terms conforming to this ordinance and (iii) sell such Bonds upon such terms as are acceptable to the Mayor and the Controller consistent with the terms of this ordinance.

If any series of Bonds is sold to the DWSRF Program, the FAA for such Bonds and the Project shall be executed by the City and the Authority. The FAA shall be substantially in the form of attached hereto as Exhibit C and incorporated herein by reference which is hereby approved by the Common Council. The Mayor and the Controller are hereby

authorized to approve, execute and deliver one or more FAA (or amended and restated FAA) and to approve any 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.

SECTION 13. Use of Proceeds. The accrued interest received at the time of the delivery of the Bonds and premium, if any, shall be deposited in the Waterworks Sinking Fund ("Sinking Fund"). The remaining proceeds from the sale of the Bonds, to the extent not used to refund BANs, 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 "City of Bloomington, Waterworks Construction Account" ("Construction Account") or directly applied to the payment of the costs of the Project as contemplated by any FAA. 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, and the acts amendatory thereof and supplemental thereto (including if sold to the DWSRF Program as supplemented by Indiana Code 4-4-11 and Indiana Code 13-18-13). The funds in the Construction Account shall be expended only for the purpose of paying the cost of the Project, 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 Bingham McHale LLP shall be considered as a part of the cost of the Project on account of which the BANs and Bonds are issued.

Any balance or balances remaining unexpended in such special account or accounts after completion of the Project, which are not required to meet unpaid obligations incurred in connection with such Project, shall either (1) be paid into the Sinking Fund and used solely for the purposes of said Sinking Fund or (2) be used for the same purpose or type of project for which the Bonds were originally issued, all in accordance with IC 5-1-13, as amended and supplemented.

With respect to any Bonds sold to the DWSRF Program, to the extent that the total principal amount of the Bonds is not paid by the purchaser or drawn down by the City, the City shall, in consultation with the DWSRF Program, reduce the principal amounts of the Bond maturities to effect such reduction in a manner that will still achieve the level of annual debt service as described in Section 3 hereof.

SECTION 14. Revenue Fund. There is hereby continued the Waterworks Revenue Fund ("Revenue Fund"). All revenues derived from the operation of the waterworks and from the collection of water rates and charges shall be deposited in the Revenue Fund and segregated and deposited as set forth in this ordinance. Of these revenues, the proper and reasonable expenses of operation and maintenance of the works shall be paid, the requirements of the Sinking Fund shall be met and fiscal agency charges of registrars or paying agents shall be paid, and the costs of replacements, extensions, additions and improvements shall be paid.

SECTION 15. Operation and Maintenance Fund. (a) There is hereby continued a fund known as the Operation and Maintenance Fund consisting of a General Account ("General Account").

(b) On the last day of each calendar month, revenues of the waterworks shall be transferred from the Revenue Fund to the General Account. The balance maintained in the General Account shall be sufficient to pay the expenses of operation and maintenance of the waterworks for the then next succeeding two (2) calendar months. The moneys credited to the General Account shall be used for the payment of the reasonable and proper operation and maintenance expenses of the waterworks on a day-to-day basis, but none of the moneys in such account shall be used for depreciation, payments in lieu of taxes, replacements, improvements, extensions or additions. Any moneys in the General Account may be transferred to the Waterworks Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the waterworks.

(c) All remaining revenues of the waterworks shall be transferred from time to time to meet the requirements of the Waterworks Sinking Fund. Moneys in excess of those transferred to the Waterworks Sinking Fund may be transferred to the Waterworks Improvement Fund or may be retained in the General Account, in the discretion of the USB, and in a manner consistent with the requirements of this ordinance.

SECTION 16. Waterworks Sinking Fund. (a) There is hereby continued the special fund designated the Waterworks Sinking Fund (herein, "Waterworks Sinking Fund" or "Sinking Fund") for the payment of the principal of and interest on all outstanding revenue bonds which by their terms are payable from the Net Revenues of the waterworks, and the payment of any fiscal agency charges in connection with the payment of bonds. There shall be set aside and deposited in the Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the Net Revenues of the waterworks to meet the requirements of the Bond and Interest Account and the Debt Service Reserve Account hereby continued in the Sinking Fund. Such payments shall continue until the balances in the Bond and Interest Account and the Debt Service Reserve Account equal the principal of and interest on all of the then outstanding bonds of the waterworks to their final maturity and provide for payment of all fiscal agency charges.

(b) Sinking Fund Trust Arrangement. If any series of Bonds is sold to the DWSRF Program, the Sinking Fund, and/or Construction Account may be held by a financial institution acceptable to the DWSRF Program, pursuant to terms acceptable to the DWSRF Program. 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 Debt Service Reserve Account in accordance with this Section 16, 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. The financial institution selected to serve in this role may also serve as Registrar and Paying Agent for any outstanding bonds of the City.

(c) Bond and Interest Account. There is hereby continued, within said Sinking Fund, the Bond and Interest Account. There shall be credited on the last day of each calendar month to the Bond and Interest Account an amount of the Net Revenues equal to (i) at least one-sixth (1/6) of the interest on all then outstanding bonds payable on the then next succeeding interest payment date and (ii) at least one-sixth (1/6) of the principal of all then outstanding bonds 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 date shall have been so credited. There shall similarly be credited to the account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on outstanding bonds 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 bank fiscal agency sufficient moneys to pay the interest and principal on the due dates thereof together with the amount of bank fiscal agency charges.

(d) Debt Service Reserve Account. There is hereby continued, within the Sinking Fund, the Debt Service Reserve Account ("Reserve Account"). The City has funded with cash or has purchased Surety Bonds ("Outstanding Surety Bonds") to satisfy the reserve requirements for the Outstanding Bonds which cash and Outstanding Surety Bonds are held in the Reserve Account as a reserve for the Outstanding Bonds.

For each series of Bonds issued under this ordinance, the City shall purchase a Surety Bond, use Bond proceeds, unless the Bonds are sold to the DWSRF Program, funds on hand, or a combination thereof, to fund the Reserve Account for said series of Bonds. Upon the issuance of each series of Bonds, the Reserve Account shall contain for said series of Bonds an amount equal to the least of (i) the maximum annual debt service on said series of Bonds, (ii) 125% of average annual debt service on said series of Bonds or (iii) 10% of the proceeds of said series of Bonds; provided, however, that for so long as the DWSRF Program is the owner of any Outstanding Bonds or Bonds, the total balance

maintained in the Reserve Account (taking into account the Outstanding Surety Bonds, any other Surety Bonds, and any cash held therein) shall not be less than the maximum annual debt service on the Outstanding Bonds and the Bonds (“Reserve Requirement”).

The Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the Bonds and the Outstanding Bonds, and the moneys in the Reserve Account shall only be used to pay current principal and interest on the Bonds and the Outstanding Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. If it becomes necessary to draw upon the Reserve Account to pay the Outstanding Bonds or the Bonds, the City shall first draw down the cash in the Reserve Account, if any, and next initiate draws on any Surety Bonds held therein, including the Outstanding Surety Bonds, on a pro rata basis, to meet such payments when due. Notwithstanding the foregoing sentence, if the Reserve Requirement for the Bonds is funded in whole or in part with cash rather than in whole with a Surety Bond, the City shall, if necessary to pay principal of or interest on the Bonds, use the cash in the Reserve Account to first pay such principal of or interest on the Bonds before such cash is used on the Outstanding Surety Bonds. Any deficiency in the balance maintained in the Reserve Account shall be promptly made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. In the event moneys in the Reserve Account are transferred to the Bond and Interest Account to pay principal and interest on the Outstanding Bonds or Bonds, respectively, then such depletion of the balance in the Reserve Account shall be made up from the next available Net Revenues after the credits into the Bond and Interest Account. No moneys shall be held in the Reserve Account in excess of the Reserve Requirement. Any moneys in the Reserve Account in excess of its requirements shall be transferred to the Waterworks Improvement Fund. The Common Council has determined, based upon the advice of its financial advisor, that the Reserve Account is reasonably required and that the Reserve Requirement is no larger than necessary to market the Bonds. The Common Council further finds that the Reserve Account is directly related to the Project since the Bonds could not be issued to finance the Project without the Reserve Account.

SECTION 17. Waterworks Improvement Fund. As set forth in Section 15(c), revenues may be transferred or credited from the General Account to the Waterworks Improvement Fund (“Improvement Fund”) hereby continued. The Improvement Fund shall be used for (a) improvements, replacement, additions and extensions of the waterworks and (b) for payment in lieu of taxes, provided that if any of the Bonds are owned by the Authority as part of the DWSRF Program, unless otherwise approved by the prior written consent of the Authority, such payments in lieu of taxes, shall only be made (i) no more frequently than semiannually on January 2 and July 2 and (ii) if all monthly deposits required by this Ordinance are current and held as of such dates in the Operation and Maintenance Fund and the Sinking Fund and (c) for any other lawful purpose related to the waterworks. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal and interest on any outstanding bonds of the waterworks or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Reserve Account of the Sinking Fund or may be transferred to the Operation and Maintenance Fund to meet unforeseen contingencies in the operation and maintenance of the waterworks.

SECTION 18. Priority of Payments. All revenues of the waterworks shall be paid in the following order, with the priority as indicated:

- (1) First to pay all expenses of the operation and maintenance of the waterworks;
- (2) Second, on a pari passu (parity) basis, to pay all principal of and interest on the Outstanding Bonds, the Bonds and any bonds hereafter issued which rank on a parity with the Bonds;
- (3) Third, on a pari passu (parity) basis, to replenish any cash drawn from the Reserve Account if the Reserve Requirement for the Bonds is satisfied, in whole or in part, with cash and to replenish any Outstanding Surety Bonds

- or Surety Bonds in place for either the Outstanding Bonds or the Bonds;
- (4) Fourth, to replenish any other cash drawn, if any, from the Reserve Account;
 - (5) Fifth, to pay the costs of improvements, replacements, additions and extensions of the waterworks and for payments in lieu of taxes; and
 - (6) All other lawful uses related to the waterworks, including debt service payments on any junior and subordinate bonds.

SECTION 19. Maintenance of Funds; Investments. The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the City. The Operation and Maintenance Fund and the Improvement Fund 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 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, as amended or supplemented (including, if sold to the DWSRF Program, as supplemented by Indiana Code 4-4-11 and Indiana Code 13-18-13), 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.

SECTION 20. Maintenance of Books and Records. 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 received on account of the operation of the waterworks, all disbursements made from the waterworks, and all transactions relating to the waterworks. Copies of all such statements and reports shall be kept on file in the office of the Director of the City of Bloomington Utilities. If any series of Bonds or BANs are sold to the DWSRF Program, the City shall establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the waterworks 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.

SECTION 21. Continuing Disclosure Agreement. If any series of Bonds is subject to the Rule, the Mayor or the Controller is hereby authorized to complete, execute and attest, on behalf of the City, the substantially final form of Continuing Disclosure Agreement (“Disclosure Agreement”) attached hereto as Exhibit D which Undertaking Agreement is hereby approved by the Common Council. Notwithstanding any other provisions of this ordinance, failure of the City to comply with the Disclosure Agreement shall not be considered an event of default under the Bonds or this ordinance.

SECTION 22. Rate Covenant. The City shall establish, maintain and collect reasonable and just and equitable rates and charges for facilities and services afforded and rendered by the waterworks, which shall to the extent permitted by law produce sufficient revenues at all times (a) to provide when any series of Bonds are sold to the DWSRF Program for (i) the proper Operation and Maintenance (as defined in the FAA) of the waterworks and (ii) to otherwise provide the payment of proper and reasonable expenses of operation, repair and maintenance of the waterworks, (b) to provide the sinking fund and debt service reserve for the liquidation of bonds or other evidences of indebtedness, (c) to provide adequate funds to be used as working capital, as well as funds for making extensions, additions, and replacements, and also, for the payment of any taxes that may be assessed against such utility, it being the intent and purpose hereof that such charges shall produce an income sufficient to maintain such utility property in a sound physical and financial condition to render adequate and efficient service. The rates and charges shall be established to the extent permitted by law, to produce Net Revenues sufficient to pay at least 1.20 times the annual debt service on the Outstanding Bonds, the Bonds and any bonds hereafter issued on a parity herewith. For purposes of this Section 22, Net Revenues exclude any outstanding fund balances from prior years. So long as any of the Bonds herein authorized are outstanding, none of the facilities or services afforded or

rendered by said system shall be furnished without a reasonable and just charge being made therefore. The City shall pay like charges for any and all services rendered by said utility to the City, and all such payments shall be deemed to be revenues of the utility. 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 and maintenance and the requirements of the Sinking Fund.

SECTION 23. Defeasance of Bonds. If, when any of 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 or any portion thereof 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 or any portion thereof and coupons then outstanding shall be paid; or (i) sufficient moneys, or (ii) 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, the principal of and the 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 or any designated portion thereof shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's waterworks.

SECTION 24. Additional Bond Provisions. 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 bonds payable out of the revenues of its waterworks ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions and improvements to the waterworks, 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 waterworks shall have been paid in accordance with their terms. The Reserve Account must contain, for all outstanding bonds, upon the issuance of additional parity bonds, (i) the reserve requirement for all outstanding bonds or (ii) reserve insurance must be obtained for all outstanding bonds, and for the additional parity bonds, the Reserve Account must contain, upon the issuance of additional parity bonds, (i) the lesser of (1) maximum annual debt service on the additional parity bonds, (2) 125% of average annual debt service on the additional parity bonds, or (3) 10% of the proceeds of the additional parity bonds; provided, however, that for so long as the DWSRF Program owns any Bonds or Outstanding Bonds, such amount shall be equal to the maximum annual debt service on the additional parity bonds, or (ii) reserve insurance must be attained for the additional parity bonds. For purposes of this subsection, proceeds of the additional parity bonds shall mean the face amount of the additional parity bonds plus premium, if any, less original issue discount, if any. As long as the Surety Bond for the 2000 Bonds is in effect, only a Qualified Surety Bond (as defined in the ordinance authorizing the 2000 Bonds) may be used as reserve insurance and, for so long as the 2000 Bonds, 2003A Bonds and 2003B Bonds (collectively, "DWSRF Bonds") are outstanding, any Surety Bond for the reserve must be from a company, and in a form, acceptable to the Authority.

(b) The Net Revenues of the waterworks in the calendar year immediately preceding the issuance of any such bonds ranking on a parity with the 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 the parity bonds the water rates and charges shall be increased sufficiently so that the increased rates and charges applied to the previous calendar year's operations would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the revenues of the waterworks, including the parity bonds proposed to be issued. For purposes of this subsection, the records of the waterworks shall be analyzed and all showings prepared by a certified public accountant or nationally recognized financial consultant or consulting engineer employed by the City for that purpose. For purposes of this subsection, Net

Revenues shall not include non-recurring revenues of the waterworks as certified by the USB or any outstanding fund balances from prior years.

(c) The interest on the additional parity bonds shall be payable semiannually on the first days of January and July and the principal on, or mandatory sinking fund redemption dates for, the additional parity bonds shall be payable semiannually on the first days of January and July.

(d) If any series of Bonds is sold to the DWSRF Program and so long as the DWSRF Bonds are outstanding, (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 this ordinance and the FAA for the DWSRF Bonds and any series of Bonds sold to the DWSRF Program, 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.

(e) To the extent required by law, the issuance of additional bonds and any necessary increase in water rates and charges shall be approved by the IURC.

SECTION 25. Further Covenants. For the purpose of further safeguarding the interests of the holders of the BANs and Bonds, it is specifically provided as follows:

(a) All contracts let by the City in connection with the construction of said Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred percent (100%) of the amount of such contracts, to insure the completion of said 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 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) 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 herein authorized are outstanding, the City shall at all times maintain its waterworks system 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 maintain insurance on the insurable parts of the system, of a kind and in an amount such as is usually carried by private corporations engaged in a similar type of business. If the Bonds are sold to the DWSRF Program and for so long as the DWSRF Bonds are outstanding, the 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.

All insurance proceeds and condemnation awards shall be used either (i) in replacing or restoring the property destroyed or damaged, or (ii) shall be deposited in the Sinking Fund; provided that if the Bonds are sold to the Authority as part of the DWSRF Program, the Authority must consent to a use of such proceeds or awards pursuant to such clause (ii).

(e) So long as any of the BANs or Bonds herein authorized are outstanding, the City shall not mortgage, pledge or otherwise encumber the property and plant of its waterworks system, or any part thereof, and shall not sell, lease or otherwise dispose of any part of the same, excepting only such machinery, equipment or other property as may be replaced, or shall no longer be necessary for use in connection with said utility, provided that if such outstanding BANs or Bonds are sold to the DWSRF Program, such exception shall apply only if the Authority consents.

(f) If the BANs or Bonds are sold to the DWSRF Program and for so long as the DWSRF Bonds are outstanding, the City shall not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the waterworks, other than for normal operating expenditures, without the prior written consent of the Authority if such undertaking would involve, commit or use the revenues of the waterworks.

(g) Except as otherwise specifically provided in Section 24 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 the waterworks shall be authorized, executed, or issued by the City, except such as shall be made junior and subordinate in all respects to the Bonds herein authorized, unless all of the Bonds herein authorized are redeemed or defeased 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, all the terms of which shall be enforceable by any bondholder by any and all appropriate proceedings in law or in equity. After the issuance of the Bonds or BANs, this ordinance shall not be repealed, amended or modified in any respect which will adversely affect the rights of the owners of said Bonds or BANs, nor shall the Common Council or any other body of the City adopt any law, ordinance or resolution in any way adversely affecting the rights of the bondholders so long as any of said Bonds, BANs or the interest thereon, remain outstanding or unpaid. Except in the case of changes described in Section 28 (a)-(f), this ordinance may be amended, however, without the consent of BAN or bondowners, 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 DWSRF 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 under Indiana law in the event of 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 including the right to have a receiver appointed to administer the utility in the event the City shall fail or refuse to fix and collect sufficient rates and charges for these purposes, or shall fail or refuse to operate and maintain said utility and to apply properly the revenue derived from the operation thereof, or if there be a default in the payment of the interest on or the principal of the Bonds or any BANs.

SECTION 26. 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 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 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 waterworks.

SECTION 27. Tax Covenants. In order to preserve the exclusion of interest on the Bonds and BANs 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 Bonds or

BANs, as the case may be (“Code”) and as an inducement to purchasers of the Bonds and BANs, the City represents, covenants and agrees that:

(a) The waterworks 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 waterworks with a nongovernmental entity, the terms of the contract will comply with IRS Revenue Procedure 97-13, 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.

(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) 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.

(i) The City represents that it will rebate any arbitrage profits to the United States of America in accordance with and to the extent required by the Code.

SECTION 28. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this Section and Section 25(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 DWSRF 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:

- (a) An extension of the maturity of the principal of or interest on, or any mandatory sinking fund redemption date for, any Bond issued pursuant to this ordinance; or
- (b) A reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon; or
- (c) The creation of a lien upon or a pledge of the revenues of the waterworks ranking prior to the pledge thereof created by this ordinance; or
- (d) A preference or priority of any Bond or Bonds issued pursuant to this ordinance over any other Bond or Bonds issued pursuant to the provisions of this ordinance; or
- (e) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance; or
- (f) A reduction in the Reserve Requirement.

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 Clerk of the City, no owner of any Bond issued pursuant to this ordinance 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 City or its officers 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 issued pursuant to the provisions of this ordinance 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 of the owners of the Bonds authorized by this ordinance, 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 consent of the owners of all the Bonds issued pursuant to this ordinance then outstanding.

SECTION 29. Issuance of BANs. The City, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs to a financial institution, the Indiana Bond Bank, the Authority or to any other purchaser, pursuant to a Bond Anticipation Note Purchase Agreement (“BAN Agreement”) to be entered into between the City and the purchaser of the BAN or BANs. If the BANs are sold to the DWSRF Program, the FAA shall serve as the BAN Agreement. The Common

Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing Bonds to provide interim financing for the Project until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its 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. The Mayor and the Controller are hereby authorized and directed to execute a BAN Agreement or FAA (and any amendments made from time to time) in such form or substance as they shall approve acting upon the advice of counsel. The Mayor, Controller and the Clerk may also take such other actions or deliver such other certificates as are necessary or desirable in connection with the issuance of the BANs or the Bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

SECTION 30. IURC. The waterworks is subject to the jurisdiction of the IURC for the approval of the issuance of bonds and rates and charges. Prior to the issuance of the Bonds or any BAN with a maturity of more than 12 months, the City shall obtain the approval of the IURC for the issuance of said Bonds or BANs. The City hereby authorizes the Mayor to retain legal counsel and other professional services as may be necessary to obtain said approval from the IURC and to initiate the proceedings necessary for obtaining said approval.

SECTION 31. Tax Exemption. (a) Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance (“Tax Sections”) which are designed to preserve the exclusion of interest on the BANs and Bonds from gross income under federal law (“Tax Exemption”) need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

(b) In lieu of issuing Bonds or BANs with tax exemption, the Bonds or BANs may be issued as “Build America Bonds” under Section 54AA of the Code by making such a designation in a certificate of the Mayor and Controller as of the date of their issuance and such Officials taking all other actions determined to be necessary or advisable consistent with the applicable requirements of the Code. If such designation includes a designation to receive from the federal government an amount as a credit equal to 35% of interest payments on the Bonds or BANs pursuant to Section 54AA and Section 6431 of the Code (together with other applicable provisions of the Code supplemental thereto, “Direct Pay Amount”), then such Direct Pay Amount shall be treated for all purposes as Net Revenues of the waterworks including without limitation for purposes of Section 8 of this ordinance to the same effect as if the water rates and charges had been increased by the amount of such Direct Pay Amount and such was applied to the previous fiscal year's operations. In determining the monthly deposit to the Bond and Interest Account related to the interest on the Bonds, the next following Direct Pay Amount receivable on the next following interest payment date shall be subtracted from such interest payment in determining the 1/6th amount to be deposited on a monthly basis therein pursuant Section 16(c) herein. If such designation includes a designation to sell tax credits applicable to the Bonds or BANs pursuant to Section 54AA of the Code (together with other applicable provisions of the Code supplemental thereto “Tax Credits”) in lieu of Direct Pay Amount, then the proceeds from the sale of such Tax Credits shall be treated the same as the proceeds of the Bonds and BANs for all purposes under this ordinance. The Tax Sections shall remain applicable to preserve the tax status of the Bonds and BANs as “Build America Bonds” under Section 54AA of the Code (including without limitation to preserve the status of any Direct Pay Amount or Tax Credit, as applicable) unless provisions thereof are not required to comply therewith and the City receives an opinion of nationally recognized bond counsel to the effect that any such Tax Section is unnecessary to preserve such status. The Common Council hereby determines and finds that the amending effect upon the prior ordinances authorizing the Outstanding Bonds by application of this Section 31(b) does not adversely affect the owners of the Outstanding Bonds and when consented to the Authority as part of the DWSRF Program shall be effective. The provisions of this Section 31(b) shall only be effective if any Bonds or BANs are issued as “Build America Bonds” under Section 54AA of the Code.

SECTION 32. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith, except the ordinances authorizing the Outstanding Bonds, are hereby repealed; provided, however, that this ordinance shall not be construed as adversely affecting the rights of the owners of the Outstanding Bonds.

SECTION 33. Headings. The headings or titles of the several sections shall be solely for convenience or reference and shall not affect the meaning, construction or effect of this ordinance.

SECTION 34. Severability. If any section, sentence, or provision of this ordinance or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

SECTION 35. Effective Date. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, Monroe County, and signing by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this ____ day of _____, 2010.

ISABEL PIEDMONT-SMITH, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this ____ day of _____, 2010.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this ____ day of _____, 2010.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance authorizes the issuance of waterworks revenue bonds in an amount not to exceed \$42,000,000 for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks.

Ordinance 10-07

EXHIBIT A

Description of Project

The Southeast Water System Improvements include: pump station (12 mgd expandable to 24 mgd), ground storage tank (2MG) and transmission mains.

The Monroe Water Treatment Plant expansion includes: intake facility pump upgrade, parshall flume/finished water reservoir, flocculation/sedimentation basin (12mgd), filter building, air/water backwash system, filter-to-waste system, high service pump station, chemical feed system improvements, transfer pump station improvements, electrical substation upgrade (plant and intake) and site work.

Ordinance 10-07

EXHIBIT B

Form of Revenue Bonds

UNITED STATES OF AMERICA
STATE OF INDIANA COUNTY OF MONROE
NO. __R- CITY OF BLOOMINGTON, INDIANA
WATERWORKS REVENUE BONDS OF 20__, Series _____

As follows if sold pursuant to a Financial Assistance Agreement:

Maturity Date Interest Rate Original Date Authentication Date

Registered Owner: Indiana Finance Authority

Principal Sum:

The City of Bloomington, Indiana, in Monroe County, State of Indiana (the "City"), for value received, hereby promises to pay to the Registered Owner set forth above (or registered assigns), solely out of the special 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 _____ 1 and _____ 1 in the years and in the amounts as set forth on Exhibit A attached hereto (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest thereon from the dates of payment for this Bond until the Principal Sum is paid at the rate per annum specified above from 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 next 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 _____ 1, 20__, in which case it shall bear interest from the Original Date, which interest is payable semi-annually on the first day of January and July of each year, beginning _____ 1, 20__. Interest shall be calculated according to a three hundred sixty (360)-day calendar year containing twelve (12) thirty (30)-day months.

The principal sum of this bond is payable at the principal office of The Bank of New York Mellon Trust Company, N.A., (the "Registrar" or "Paying Agent"), in Indianapolis, Indiana. All payments of interest on this bond shall be paid by check or draft mailed or delivered one (1) business day prior to the interest payment date to the Registered Owner hereof at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the Registered Owner. Notwithstanding the foregoing to the contrary, if payment of this Bond is made to the Indiana Finance Authority under the terms of the Financial Assistance Agreement, all payments of principal and interest hereon shall be made by wire transfer for deposit to a financial institution as directed by the Indiana Finance Authority as of 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 at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the registered owner. All payments on the bond shall be made in coin or currency of the United States of America, which on the dates of such payment shall be legal tender for the payment of public and private debts.

As follows if not sold pursuant to a Financial Assistance Agreement:

<u>Maturity</u> <u>Date</u>	<u>Interest</u> <u>Rate</u>	<u>Original</u> <u>Date</u>	<u>Authentication</u> <u>Date</u>	<u>CUSIP</u>
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Registered Owner:

Principal Sum:

The City of Bloomington, Indiana, in Monroe County, State of Indiana (the "City"), for value received, hereby promises to pay to the Registered Owner set forth above (or registered assigns), solely out of the special fund hereinafter referred to, the Principal Sum set forth above on the Maturity Date set forth above (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 Sum is paid at the rate per annum specified above from 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 next 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 _____ 1, 20__, in which case it shall bear interest from the Original Date, which interest is payable semi-annually on the first day of January and July of each year, beginning _____ 1, 20__. Interest shall be calculated according to a three hundred sixty (360)-day calendar year containing twelve (12) thirty (30)-day months.

The principal sum of this bond is payable at the principal office of _____ (the "Registrar" or "Paying Agent"), in _____, _____. All payments of interest on this bond shall be paid by check or draft mailed or delivered one business day prior to the interest payment date to the Registered Owner hereof at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the Registered Owner. All payments on the bond shall be made in coin or currency of the United States of America, which on the dates of such payment shall be legal tender for the payment of public and private debts.

THIS BOND SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY 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 THE SPECIAL FUND PROVIDED FROM THE NET REVENUES DESCRIBED HEREIN.

This bond is one (1) of an authorized issue of bonds of the City, of like date, tenor and effect, except as to numbering, interest rates and dates of maturity, in the total amount of \$_____, numbered from 09R-1 up, issued for the purpose of providing funds to be pay the costs of improving the City's municipal waterworks utility, and to pay incident expenses ,including a premium for a municipal bond insurance policy and a debt service reserve surety premium, as authorized by an ordinance adopted by the governing body of the City on the ____ day of _____, 2009, entitled "An Ordinance concerning an ordinance concerning the construction of additions, extensions and improvements to the waterworks of the City of Bloomington, Indiana, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said waterworks, the safeguarding of the interests of the owners of said revenue bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith (the "Ordinance"), and in strict compliance with the provisions of Indiana Code 5-1, Indiana Code 8-1.5-2 and -3 and other applicable laws relating to the issuance of revenue bonds, as amended (collectively, the "Act").

Pursuant to the provisions of the Act and the Ordinance, the principal and interest on this bond and all other bonds of the issue and any bonds hereafter issued on a parity basis therewith, are payable solely from the Waterworks Sinking Fund (continued by the Ordinance) to be provided from the Net Revenues (hereinafter defined as the gross revenues remaining after the payment of the reasonable expenses of operation, repair and maintenance) of the utility, including the utility financed by the use of the proceeds of this bond and all additions and improvements thereto and replacements thereof subsequently constructed or acquired.

As follows if sold pursuant to a Financial Assistance Agreement:

Reference is hereby made to the Financial Assistance Agreement (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 City irrevocably pledges the entire Net Revenues of the utility to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one (1), and any bonds ranking on a parity basis therewith (including the Outstanding Bonds as described in the Ordinance), and covenants that it will cause to be fixed, maintained and collected such rates and charges for services rendered by the waterworks as are sufficient in each year for the payment of proper and reasonable expenses of Operation and Maintenance (as defined in the Financial Assistance Agreement) of the waterworks and for the payment of the sums required to be paid into the Waterworks Sinking Fund under the provisions of the Act and the Ordinance. In the event the City or the proper officers or officials thereof shall fail or refuse to so fix, maintain or collect such rates or charges, or if there be a default in 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 in the Act, including the right to have a receiver appointed to administer the waterworks and to charge and collect rates sufficient to provide for the payment of this bond and the interest hereon.

As follows if not sold pursuant to a Financial Assistance Agreement:

The City irrevocably pledges the entire Net Revenues of the waterworks to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one (1), and any bonds ranking on a parity basis therewith (including the Outstanding Bonds as described in the Ordinance), and covenants that it will cause to be fixed, maintained and collected such rates and charges for services rendered by the waterworks as are sufficient in each year for the payment of proper and reasonable expenses of operation, repair and maintenance of the waterworks and for the payment of the sums required to be paid into the Waterworks Sinking Fund under the provisions of the Act and the Ordinance. In the event the City or the proper officers or officials thereof shall fail or refuse to so fix, maintain or collect such rates or charges, or if there be a default in 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 in the Act, including the right to have a receiver appointed to administer the waterworks and to charge and collect rates sufficient to provide for the payment of this bond and the interest hereon.

The City further covenants that it will set aside and pay into its Waterworks Sinking Fund a sufficient amount of the Net Revenues of the waterworks to meet (a) the interest on all bonds payable from the revenues of the waterworks (including, without limitation, the bonds authorized by the Ordinance and the Outstanding Bonds), as such interest shall fall due, (b) the necessary fiscal agency charges for paying all bonds and interest, (c) the principal of all bonds payable from the revenues of the waterworks (including, without limitation the bonds authorized by the Ordinance), as such principal shall fall due, and (d) an additional amount as a margin of safety to create the reserve required by the Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues of the utility, all as more particularly described in the Ordinance.

As follows if sold pursuant to a Financial Assistance Agreement:

The bonds of this issue maturing on January 1, 20__, or thereafter, are redeemable at the option of the City on _____ 1, 20__, or any date thereafter, on not less than thirty (30) days' notice, in whole or in part, in inverse order of maturity and by lot within a maturity, at face value together with the following premiums (expressed in percentage of face value):

2% if redeemed on _____ 1, 20__ or thereafter before _____ 1, 20__;

1% if redeemed on _____ 1, 20__ or thereafter before _____ 1, 20__;

0% if redeemed on _____ 1, 20__ or thereafter;

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

As follows if not sold pursuant to a Financial Assistance Agreement:

The bonds of this issue maturing on January 1, 20__, or thereafter, are redeemable at the option of the City on _____, or any date thereafter, on not less than thirty (30) days' notice, in whole or in part, in order of maturity as determined by the City and by lot within a maturity, at face value together with the following premiums (expressed in percentage of face value):

___% if redeemed on _____ or thereafter before _____;

___% if redeemed on _____ or thereafter before _____;

0% if redeemed on _____ or thereafter;

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

As follows if sold subject to mandatory sinking fund redemption:

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 the dates and in the amounts set forth below:

<u>Date</u>	<u>Amount</u>
-------------	---------------

*Final Maturity

If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.

Notice of such redemption shall be mailed to the address of the Registered Owner as shown on the registration record of the City not less than thirty (30)/sixty (60) days prior to the date fixed for redemption unless such redemption notice is waived by the owners of the bond or bonds redeemed. 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 and when the bonds shall be presented for redemption.

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 the bank for payment and the City shall have no further obligation or liability in respect thereto.

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

This bond is transferable or exchangeable only upon the books of the City kept for that purpose at the office of the Registrar, or its successor, by the Registered Owner hereof in person, or by such owner's 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 such owner's 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 including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

As follows if sold pursuant to a Financial Assistance Agreement:

The bonds maturing in any one (1) year are issuable only in fully registered form in the denomination of One Dollar (\$1.00) or any integral multiple thereof not exceeding the aggregate principal amount of the bonds maturing in such year.

As follows if not sold pursuant to a Financial Assistance Agreement:

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

It is hereby certified and recited that all 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 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 the duly elected, qualified, and acting Mayor of the City of Bloomington, Indiana, its corporate seal to be hereunto affixed, imprinted, or impressed by any means and attested manually or by facsimile by its duly appointed, qualified and acting Controller, all as of the Dated Date set forth above.

By: _____
Mark Kruzan, Mayor

Attest:

Michael R. Trexler, Controller

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

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

_____, as Registrar

By: _____
Authorized Representative

The following abbreviations, when used in the inscription of the face of the within Bond, shall be construed as though they were written out in full according to the applicable laws or regulations.

TEN COM. as tenants in common
TEN ENT. as tenants by the entireties
JT TEN. as joint tenants with right of survivorship and not as
tenants in common

UNIF TRANSFERS MIN ACT. ___ Custodian
(Cust) (Minor)

under Uniform Transfers to Minors Act

(State)

Additional abbreviations may also be used though not in the list above.

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _

PLEASE INSERT SOCIAL SECURITY OR
OTHER IDENTIFYING NUMBER OF TRANSFEREE

(Please Print or Typewrite
Name and Address of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints
, attorney to transfer the within Bond on the registration books of the Registrar, with full
power of substitution in the premises.

Dated:

Signature Guaranteed:

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

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

As follows if sold pursuant to a Financial Assistance Agreement:

EXHIBIT A

<u>Date*</u>	<u>Amount</u>	<u>Date*</u>	<u>Amount</u>
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* Pursuant to the Financial Assistance Agreement, the final maturity of this Bond may occur prior to those set forth above in order that the final maturity of this Bond not exceed 20 years from Substantial Completion of Construction (as defined in the Financial Assistance Agreement).

EXHIBIT C

Form of Financial Assistance Agreement

**STATE OF INDIANA
DRINKING WATER REVOLVING LOAN PROGRAM**

FINANCIAL ASSISTANCE AGREEMENT made as of this ____ day of _____ 20__ by and between the Indiana Finance Authority (the “Finance Authority”), a body politic and corporate, not a state agency but an independent instrumentality of the State of Indiana (the “State”) and the City of Bloomington, Indiana (the “Participant”), a political subdivision as defined in I.C. 13-11-2-164, operating its water utility under I.C. 8-1.5, witnesseth:

WHEREAS, the State’s Drinking Water Revolving Loan Program (the “Drinking Water SRF Program”) has been established in accordance with the federal Safe Drinking Water Act and any regulations promulgated thereunder, and pursuant to I.C. 13-18-21 (the “Drinking Water SRF Act”), which Drinking Water SRF Act also establishes the drinking water revolving loan fund (the “Drinking Water SRF Fund”); and

WHEREAS, pursuant to the Drinking Water SRF Act, the State was authorized to fund the Drinking Water SRF Program with federal capitalization grants, together with required state matching funds therefor, and to operate the Drinking Water SRF Program, and prior to May 15, 2005 so funded and operated the Drinking Water SRF Program; and

WHEREAS, the Indiana Bond Bank (the “Bond Bank”) has had a longstanding commitment to finance water quality and drinking water projects for qualified entities by issuing its bonds, pursuant to I.C. 5-1.5, for the purpose of buying securities of such qualified entities and financed by the Drinking Water SRF Program, including the required state matching funds, and prior to May 15, 2005 so financed the Drinking Water SRF Program; and

WHEREAS, pursuant to Public Law 235-2005, by operation of law and effective May 15, 2005, the Finance Authority has become the successor to the State in all matters related to the Drinking Water SRF Program (including use and acceptance of federal capitalization grants and required state matching funds and operation of the Drinking Water SRF Program) and to the Bond Bank in all matters related to the financing of the Drinking Water SRF Program (including the Bond Bank’s outstanding State Revolving Fund Program Bonds and securities of all qualified entities purchased with the proceeds of such bonds); and

WHEREAS, the Participant is a duly existing political subdivision of the State, lawfully empowered to undertake all transactions and execute all documents mentioned or contemplated herein; and

WHEREAS, the Participant has previously entered into 7 agreements, such being (a) a Financial Assistance Agreement with the State, dated as of April 7, 2000, (b) a Financial Assistance Agreement with the State, dated as of June 23, 2000, (c) an Amended Restated Financial Assistance Agreement with the State, dated as of December 29, 2000, (d) a Financial Assistance Agreement, dated as of April 18, 2003, (e) a Financial Assistance Agreement with the State, dated as of September 4, 2003, (f) an Amended Restated Financial Assistance Agreement with the Authority, dated as of June 29, 2006, and (g) a Financial Assistance Agreement with the Authority, dated as of June 29, 2006 (each as later amended, collectively, the “Prior Agreements”), to borrow money from the Wastewater SRF Program and the Drinking Water SRF Program, respectively, to construct and acquire separate projects (as described and defined in the respective Prior Agreements); and

WHEREAS, the Participant has determined to undertake a drinking water system project (as more fully described herein, the “Project”) and to borrow money from the Drinking Water SRF Program to construct and acquire the Project; and

WHEREAS, the Finance Authority and the Participant desire to set forth the terms of such financial assistance as hereinafter provided.

NOW THEREFORE, in consideration of the mutual covenants herein set forth, the Finance Authority and the Participant agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following terms shall, for all purposes of this Agreement, have the following meaning:

“Agency” shall mean the United States Environmental Protection Agency or its successor.

“American Recovery and Reinvestment Act” shall mean the American Recovery and Reinvestment Act of 2009, and other laws, regulations and guidance supplemental thereto (including the Safe Drinking Water Act), as amended and supplemented from time to time.

“Authorizing Instrument(s)” shall mean the separate trust indenture(s) of the Participant entered into with a corporate trustee or the detailed resolution(s) or ordinance(s) of the governing body of the Participant pursuant to which the Bonds are issued in accordance with State law.

“Authorized Representative” shall mean the City Controller of the Participant or such other officer, official, or representative of the Participant duly authorized to act for and on behalf of the Participant as provided for herein.

“Bond” or **“Bonds”** shall mean the instrument(s) (including the 20__ Bonds and the 20__ BAN) which evidence(s) the Loan, as authorized by the Authorizing Instrument and containing the terms set forth in Section 2.02 of this Agreement.

“Bond Fund” shall mean the separate and segregated fund or account established and created by the Participant pursuant to the Authorizing Instrument from which payment of the principal of and interest on the Bonds is required to be made by the Participant.

“Business Day” shall mean any day other than a Saturday, Sunday or State legal holiday or any other day on which financial institutions in the State are authorized by law to close and to remain closed.

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

“Commission” shall mean the Indiana Utility Regulatory Commission created under I.C. 8-1-1-2 or its successor.

“Construction Fund” shall mean the separate and segregated fund or account established and created by the Participant pursuant to the Authorizing Instrument to receive proceeds of the Bonds and from which Eligible Costs of the Project may be paid by the Participant.

“Credit Instrument” means a letter of credit, surety bond, liquidity facility, insurance policy or comparable instrument furnished by a Credit Provider that is used by the Participant to meet all or a portion of any debt service reserve requirement securing the Bonds or any other bonds payable from the revenues of the Drinking Water System, which bonds are on a parity with the Bonds.

“Credit Provider” means a bank, insurance company, financial institution or other entity providing a Credit Instrument.

“Department” shall mean the Indiana Department of Environmental Management created under I.C. 13-13-1-1 or its successor.

“Deposit Agreement” shall mean an agreement between the Participant and the Deposit Agreement Counterparty in such form as from time to time determined by the Finance Authority pursuant to which (a) the Participant’s Bond Fund (including any reserve account established and created by the Participant pursuant to the Authorizing Instrument related thereto) shall be held by

such Deposit Agreement Counterparty and available for payment of the Bonds and any other similar obligations of the Participant that are payable from the Bond Fund regardless whether they are on a parity basis, (b) such Deposit Agreement Counterparty serves as the paying agent for the Bonds and any other such similar obligations of the Participant that are payable from the Bond Fund, and (c) the Participant's Construction Fund may be held by such Deposit Agreement Counterparty upon any Loan disbursement by the Finance Authority to it from time to time.

“Deposit Agreement Counterparty” shall mean the financial institution that enters into a Deposit Agreement with the Participant, which financial institution shall be approved by the Finance Authority and may be replaced by the Finance Authority from time to time.

“Director of Environmental Programs” shall mean the person designated by the Finance Authority as authorized to act as the Director of Environmental Programs (which designation includes such Director's assumption of the duties previously assigned to the Drinking Water SRF Program Representative and the Drinking Water SRF Program Director) and where not limited, such person's designee.

“Disbursement Agent” shall mean the party disbursing the Loan to or for the benefit of the Participant, which shall be the Trustee unless amounts are held in the Construction Fund, in which case the Disbursement Agent shall thereafter be the Deposit Agreement Counterparty as the party disbursing amounts are held in the Construction Fund unless otherwise agreed by the Finance Authority.

“Disbursement Request” shall mean a request for a disbursement of the Loan made by an Authorized Representative in such form as the Finance Authority may from time to time prescribe.

“Drinking Water SRF Fund” shall mean the drinking water revolving loan fund as established by I.C. 13-18-21-2.

“Drinking Water SRF Indenture” shall mean the Third Amended and Restated Drinking Water SRF Trust Indenture, dated as of April 1, 2007 between the Finance Authority (as successor by operation of law to the State in all matters related to the Drinking Water SRF Program) and the Trustee, as amended and supplemented from time to time.

“Drinking Water System” shall mean all, or any part of, the system for the provision to the public of water for human consumption through pipes and other constructed conveyances that:

- (1) has at least fifteen (15) service connections; or
- (2) regularly serves at least twenty-five (25) individuals;

and as further defined and described in I.C. 13-11-2-177.3 and SRF Policy Guidelines, as amended and supplemented from time to time.

“Eligible Cost(s)” shall mean and include, whether incurred before or after the date of this Agreement, all costs which have been incurred and qualify for Financial Assistance, including engineering, financing and legal costs related thereto.

“Equity Account” shall mean the Equity Grant Account, the Equity Earnings Account and any other Equity account, each as created and existing from time to time under the Drinking Water SRF Indenture and held as part of the Drinking Water SRF Fund.

“Finance Authority” shall mean the Indiana Finance Authority, a body politic and corporate, not a state agency but an independent instrumentality of the State.

“Finance Authority Bonds” shall mean (A) any Indiana Bond Bank State Revolving Fund Program Bonds issued as a part of the Drinking Water SRF Program within the meaning of the Drinking Water SRF Indenture and (B) any Finance Authority State Revolving Fund Program Bonds or other similar obligations of the Finance Authority issued as a part of the Drinking Water SRF Program within the meaning of the Drinking Water SRF Indenture.

“Financial Assistance” shall mean the financial assistance authorized by the Safe Drinking Water Act, including the Loan.

“Loan” shall mean the purchase of the Bonds by the Finance Authority to finance the planning, designing, constructing, renovating, improving and expanding of the Participant’s Drinking Water System or refinance an existing debt obligation where such debt was incurred and building of such systems began after July 1, 1993, but does not mean the provision of other Financial Assistance.

“Loan Forgiveness” shall mean the forgiveness and discharge of the 20__ BAN as provided by Section 2.02(e) herein to the extent permitted by the American Recovery and Reinvestment Act.

“Loan Reduction Payment” shall mean in any circumstances where there is a balance (inclusive of Loan proceeds and any earnings) in the Construction Fund, any action causing such balance to be applied to a reduction in the maximum aggregate amount of the Loan outstanding other than pursuant to regularly scheduled principal payments or optional redemptions applicable to the Bonds. A Loan Reduction Payment shall not be applicable unless Loan amounts are held in the Construction Fund.

“Non-Use Close-out Date” shall mean that date which is the earlier of (a) the first date as of which the full amount of the Loan has been disbursed on a cumulative basis (which shall also be deemed to have occurred when and if such amounts have been deposited in the Participant’s Construction Fund) or (b) the date as of which the Participant binds itself that no further Loan disbursements will be made under this Agreement.

“Non-Use Fee” shall mean a fee in an amount determined by the Finance Authority charged to compensate it for costs and expenses within the Drinking Water SRF Program. Such amount shall be the greater of (A) the product of the undrawn balance of the Loan on each applicable Non-Use Assessment Date multiplied by one percent (1%) or (B) One Thousand Dollars (\$1,000). Such fee shall apply and be payable under Section 5.09 herein with respect to each Non-Use Assessment Date until the Non-Use Close-out Date shall occur. A Non-Use Fee shall not be applicable if the full amount of the Loan has been disbursed and deposited in the Participant’s Construction Fund by the Non-Use Assessment Date.

“Non-Use Assessment Date” shall mean _____ 1, 20__ and the first day of each sixth (6th) calendar month thereafter unless and until the Non-Use Close-out Date occurs in advance of any such Non-Use Assessment Date.

“Operation and Maintenance” shall mean the activities required to assure the continuing dependable and economic function of the Drinking Water System, including maintaining compliance with primary and secondary drinking water standards, as follows:

(1) Operation shall mean the control and management of the united processes and equipment which make up the Drinking Water System, including financial and personnel management, records, reporting, laboratory control, process control, safety and emergency operation planning and operating activities.

(2) Maintenance shall mean the preservation of the functional integrity and efficiency of equipment and structures by implementing and maintaining systems of preventive and corrective maintenance, including replacements.

“Plans and Specifications” shall mean the detailed written descriptions of the work to be done in undertaking and completing the Project, including the written descriptions of the work to be performed and the drawings, cross-sections, profiles and the like which show the location, dimensions and details of the work to be performed.

“Preliminary Engineering Report” shall mean the information submitted by the Participant that is necessary for the Finance Authority (or if submitted to the Department prior to May 15, 2005, then the Department in its role as predecessor to the Finance Authority in certain

matters related to the Drinking Water SRF Program) to determine the technical, economic and environmental adequacy of the proposed Project.

“Project” shall mean the activities or tasks identified and described in Exhibit A to this Agreement, and incorporated herein, as amended or supplemented by the Participant and consented to by the Finance Authority, for which the Participant may expend the Loan.

“Purchase Account” shall mean the account by that name created by the Drinking Water SRF Indenture and held as part of the Drinking Water SRF Fund.

“Reamortization Methodology” shall mean a change in principal maturities of the Bonds by use of the following methodology caused by the Project being Substantially Complete with a portion of the Loan (including any amounts held in the Construction Fund) not being subject to disbursement to pay further Project costs, whether such is effected by means of a Loan Reduction Payment or a reduction in the maximum Loan amount available under this Agreement as determined by the Finance Authority:

(1) as between the 20__ Bonds and the 20__ BAN, shall be reduced in the same proportion as would have had been applied to such Loan, had the Loan been first allocated under the SRF Policy Guidelines on the date of this Agreement in the aggregate amount finally drawn; and

(2) the principal maturities of the 20__ Bonds shall be modified in such amounts and with such maturities as achieves as level annual debt service for such 20__ Bonds as practicable during each annual period (commencing in the first full bond year after application of this methodology and ending no later than the date of the final maturity of the 20__ Bonds as originally scheduled);

provided that (a) this methodology is agreed to be consistent with the methodology prescribed in the Authorizing Instrument and as originally applied to the Bonds and (b) any principal payment on the 20__ Bonds due and payable prior to application of this methodology shall not be affected by this methodology.

“Safe Drinking Water Act” shall mean the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq. and other laws, regulations and guidance supplemental thereto (including the American Recovery and Reinvestment Act), as amended and supplemented from time to time.

“Settlement Costs” shall mean any and all fees, costs, losses or expenses incurred (or estimated to be incurred) by the Finance Authority resulting or arising from a Loan Reduction Payment (including without limitation interest and earnings differentials when the Finance Authority seeks to lend such Loan Reduction Payment to another Drinking Water SRF Program borrower). In connection with the Loan made pursuant to this Agreement, there are agreed to be no Settlement Costs.

“Settlement Fee” shall mean a fee payable by the Participant to the Finance Authority to compensate the Finance Authority for its Settlement Costs in circumstances where there has been a Loan Reduction Payment.

“SRF Policy Guidelines” shall mean guidance of general applicability (as from time to time published, amended and supplemented by the Finance Authority) pertaining to participants utilizing financial assistance in connection with their projects funded in whole or in part through the Drinking Water SRF Program.

“State” shall mean the State of Indiana.

“20__ Recovery Grant” shall mean the federal capitalization grant, if any, made available to the Finance Authority pursuant to the American Recovery and Reinvestment Act by the Agency for use as part of the Drinking Water SRF Program, provided that such grant is available and designated by the Finance Authority as a source of funding for all or a portion of the Loan, whether such designation by the Finance Authority occurs when this Agreement is entered into or later.

“Substantial Completion of Construction” shall mean the day on which the Finance Authority (or if designated by the Finance Authority, the Department) determines that all but minor components of the Project have been built, all equipment is operational and the Project is capable of functioning as designed.

“Trustee” shall mean The Bank of New York Mellon Trust Company, N.A., Indianapolis, Indiana, in its capacity as trustee or its successor under the Drinking Water SRF Indenture.

(End of Article I)

ARTICLE II

PURPOSE OF BORROWING AND LOAN TERMS

Section 2.01. Amount; Purpose. The Finance Authority agrees to Loan an amount not to exceed _____ Million _____ Thousand Dollars (\$_____,000) in aggregate principal amount to the Participant as Financial Assistance to pay for the Eligible Costs, as hereinafter described, of the Project on, and subject to, the terms and conditions contained herein. The Loan shall be used only to pay the following Eligible Costs: (a) eligible planning services for the production of a Preliminary Engineering Report (“Planning”), (b) eligible design services for the production of Plans and Specifications (“Design”) and (c) eligible construction costs, including financing and legal costs (“Construction”). The Loan shall be funded solely from unallocated and available proceeds of the 20__ Recovery Grant or from other sources (including its Purchase Account and Equity Accounts) that the Finance Authority may, in its sole discretion, designate. The Loan is evidenced by the Bonds executed and delivered by the Participant contemporaneously herewith. The Bonds shall be in fully registered form, with the Finance Authority registered as the registered owner. So long as the Finance Authority is the registered owner, the principal of and redemption premium, if any, and interest on the Bonds shall be paid to the Trustee by a wire transfer referenced as follows: The Bank of New York, ABA 021 000 018, For Credit to GLA: 111-565, For Final Credit: TAS #610026, Account Name: IN SRF QE Deposit, Attn: Amy L Oram. The Participant agrees to undertake and complete the Project and to receive and expend the Loan proceeds in accordance with this Agreement.

Section 2.02. The Bonds.

(a) Until paid, the Waterworks Revenue Bonds of 20__ (“20__ Bonds”) will bear interest at the per annum rate of _____ and _____ One-Hundredths percent (____%). Such interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months, and be as provided in I.C. 13-18-21-10 and -15. Interest, if any, on the 20__ Bonds will be payable on January 1 and July 1 of each year, commencing _____. The 20__ Bonds will be in the aggregate principal amount of _____ Million _____ Thousand Dollars (\$_____,000). Subject to Section 2.05 and 2.06 herein, the 20__ Bonds will mature on January 1 and July 1 of each of the years set forth in, and at the principal amount set opposite each such month and year set forth in the schedule contained in the attached Exhibit B to this Agreement (which is hereby incorporated by reference); provided, however, notwithstanding the foregoing or the terms of the 20__ Bonds to the contrary, no maturity of 20__ Bonds shall extend beyond the date which is twenty (20) years after Substantial Completion of Construction. If the maturity date for any 20__ Bonds is beyond such date, unless otherwise agreed to, such 20__ Bonds, together with accrued and unpaid interest thereon, will be due and payable on such date.

(b) Until paid, the Waterworks Bond Anticipation Note of 20__ (“20__ BAN”) will bear interest at the per annum rate of zero percent (0%). Such interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months, and be as provided in I.C. 13-18-21-10 and -15. Interest, if any, on the 20__ BAN will be payable on January 1 and July 1 of each year, commencing _____. The 20__ BAN will be in the aggregate principal amount of _____ Million _____ Thousand Dollars (\$_____,000). Subject to Section 2.05 and 2.06 herein, the 20__ BAN will mature on April 15, 2013.

(c) The Bonds will be subject to redemption by the Participant as provided in the Authorizing Instrument. The Loan, and the Bonds evidencing it, will be subject to payment by the Participant as provided in this Agreement.

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

(e) The principal maturity of the 20__ BAN is subject to Loan Forgiveness (which evidences a portion of the Loan made hereunder) and shall be deemed forgiven and discharged on April 15, 20__ to the extent permitted by the American Recovery and Reinvestment Act, provided however that there is not then existing any default under this Agreement and the Participant has otherwise complied with the terms and conditions of this Agreement (including

having timely made principal and interest payments on the remainder of the maturities of the 20__ Bonds).

Section 2.03. Disbursement Conditions. Each of the following shall be a condition precedent to the disbursement of the Loan or any portion thereof (including from the Construction Fund):

(a) (1) With respect to procurement of professional services related to the Project to be paid from Loan proceeds, the Participant shall have complied with applicable State law and SRF Policy Guidelines. (2) With respect to procurement of all other goods and services related to the Project to be paid from Loan proceeds, the Participant shall have complied with I.C. 36-1-12 and SRF Policy Guidelines.

(b) No representation, warranty or covenant of the Participant contained in this Agreement or in any paper executed and delivered in connection with the transactions contemplated by this Agreement shall be false or inaccurate in any material respect.

(c) The Participant shall undertake and faithfully perform each of its obligations, agreements and covenants contained in this Agreement, the Authorizing Instrument and the Bonds.

(d) There shall be available to the Finance Authority uncommitted funds in an amount sufficient to satisfy the Finance Authority's obligations hereunder from the proceeds of the 20__ Recovery Grant or from other sources (including its Purchase Account and Equity Accounts) that the Finance Authority may, in its sole discretion, designate; provided however, once Loan proceeds have been deposited in the Construction Fund, such condition shall be deemed satisfied.

(e) The Participant shall have undertaken all actions necessary to comply with and satisfy the conditions and requirements for a Loan secured with money made available from the Drinking Water SRF Fund as set forth in federal and State statutes, rules and regulations, including I.C. 13-18-21, SRF Policy Guidelines, the Safe Drinking Water Act and 40 C.F.R. Part 35.

(f) Prior to making any Loan disbursement to pay any Construction costs, the Project shall have been approved by the State's Historical Preservation Officer in a manner consistent with the policies and practices of the Drinking Water SRF Program (the "Historical Preservation Approval"). Notwithstanding any provision of this Agreement to the contrary, in the event a Historical Preservation Approval has not been given within four (4) months after the date of this Agreement, the Finance Authority may, in its sole discretion, (i) reduce the aggregate amount of the Loan to the amount then disbursed and outstanding under this Agreement and (ii) if any amounts are held in the Construction Fund, require a Loan Reduction Payment pursuant to Section 2.06 as if it were a date that was three (3) years after the dated date of the Bonds. Upon giving notice to the Participant of such action, no further Loan disbursement (including from the Construction Fund) may be made under this Agreement unless consented to by the Finance Authority.

(g) In the event the Bonds are payable from rates and charges of the Drinking Water System if requested by the Finance Authority, the Participant shall provide evidence satisfactory to the Finance Authority demonstrating that such rates and charges are at a level adequate to produce and maintain sufficient net revenue after providing for the proper Operation and Maintenance of the Drinking Water System, on a proforma basis consistent with SRF Policy Guidelines, to provide 1.25x coverage on all obligations of the Drinking Water System (including the Bonds).

Section 2.04. Disbursement Procedures. Loan proceeds (including any held from time to time in the Construction Fund) shall be disbursed to the Participant by the Disbursement Agent for actual Eligible Costs incurred with respect to the Project. The Finance Authority may, in its discretion, cause Loan disbursements to be made (a) directly to the person or entity identified in the Disbursement Request to whom payment is due, or (b) if advised in writing by the Participant that I.C. 36-1-12-14 or a similar law applies to the Project, to the Participant for

purposes of collecting retainage, or some combination thereof. Any Loan proceeds in excess of the amount subject to retainage controlled by the Participant will be immediately remitted to the person or entity to whom payment is due, no later than three (3) Business Days after receipt or the date such Loan proceeds are no longer subject to retainage. The Finance Authority may, in its discretion, cause Loan disbursements to be made from time to time, in whole or in part, to the Participant's Construction Fund for disbursement consistent with this Agreement. Loan disbursements shall not be made more frequently than monthly and shall only be made following the submission of a Disbursement Request to the Finance Authority. Disbursement Requests shall be approved by the Director of Environmental Programs prior to submission to the Disbursement Agent for a Loan disbursement. Disbursement Requests shall be numbered sequentially, beginning with the number 1.

Section 2.05. Effect of Disbursements. Loan disbursements made to or for the benefit of the Participant shall be deemed to be a purchase, first, of the 20__ Bonds for any Loan Disbursements made on the date hereof, second, of the 20__ BAN unless cost related to a disbursement has been designated as not eligible for funding from the 20__ Recovery Grant and, third, of the remainder of the 20__ Bonds in order of their maturities, provided that if the original maximum aggregate amount of the Loan is not disbursed (or not required to be disbursed pursuant to Section 2.06(a) or (b) herein), then the maturities of the Bonds (including as set forth in Exhibit B) shall be modified consistent with the Reamortization Methodology. The deposit of Loan proceeds in the Construction Fund shall be deemed to be a purchase of the Bonds. Interest on the Loan commences on disbursement of the Loan to or for the benefit of the Participant (including any amounts disbursed to the Construction Fund) by the Finance Authority and the Bonds shall be deemed to be purchased in the full amount thereof. Each disbursement (including any amounts disbursed from the Construction Fund) shall be made pursuant to a Disbursement Request. In the event any Loan disbursement (including any amounts disbursed from the Construction Fund) shall be made in excess of Eligible Costs, such excess disbursements shall be immediately paid by the Participant to the Disbursement Agent (and if made from any amounts held in the Construction Fund, shall be immediately deposited by the Participant into such Construction Fund) and thereafter may, subject to the terms and conditions set forth in this Agreement, be applied thereafter to pay Eligible Costs of the Project by the Participant.

Section 2.06. Acknowledgment of Amount of Loan; Interim Contractual Commitment Requirements; Final Disbursement. (a) Within 30 days after any request by the Finance Authority from time to time, the Participant shall execute and deliver to the Finance Authority an acknowledgment in the form prescribed by the Finance Authority which acknowledges the outstanding principal of and interest on the Bonds. Unless the Finance Authority consents in writing, no Loan disbursement shall be made more than one year after Substantial Completion of Construction. After Substantial Completion of Construction, upon the request of the Finance Authority, the Participant shall replace, at its expense, the Bonds with substitutes issued pursuant to the Authorizing Instrument to evidence the outstanding principal under the Loan.

(b) In the event that (i) Construction has not commenced by December 1, 20__ or (ii) the Participant has not entered into contracts related to Eligible Costs as of December 1, 20__ which obligate the Participant to make payments that aggregate an amount at least equal to the maximum Loan amount hereunder ("Contractual Commitments"), then the Loan balance available pursuant to this Agreement shall be reduced as of December 1, 20__ to an aggregate amount equal to Contractual Commitments as of December 1, 20__ (the "Reduced Loan Amount"). The Participant agrees to certify to the Finance Authority by no later than December 5, 20__ (i) the aggregate amount of the Contractual Commitments by December 1, 20__, (ii) that true and accurate copies of the contracts constituting such Contractual Commitments have been provided to the Finance Authority, (iii) whether Construction has commenced by December 1, 20__ and (iv) such additional information as required by SRF Policy Guidelines. The Finance Authority may in its discretion determine one or more later dates to apply to the foregoing provisions of this Section 2.06(b) provided that such actions by such dates permits compliance with the American Recovery and Reinvestment Act without any deobligation of the 20__ Recovery Grant funds.

(c) In addition to Section 2.06(b), in the event there remains a balance (inclusive of Loan proceeds and any earnings) in the Construction Fund on the date that is the earlier of (i) one year after Substantial Completion of Construction or (ii) three (3) years after the dated date of the

Bonds (or in either such circumstance, such later date as the Finance Authority may approve in its discretion), the Participant agrees to make a Loan Reduction Payment, and to pay a Settlement Fee, to the Finance Authority within 10 days after any Finance Authority written demand. Any Loan Reduction Payment shall be applied and Bond maturities modified consistent with the Reamortization Methodology. If the Authorizing Instrument permits the Participant to apply Bond proceeds to pay interest accruing on or before Substantial Completion of Construction, the Participant may seek to reimburse itself for such interest costs it has paid pursuant to a Disbursement Request provided, unless otherwise approved by the Finance Authority, any such reimbursement shall be limited to the amount thereof that the Participant causes to be used to pay the Settlement Fee. If the Participant fails to make such Loan Reduction Payment or to pay a Settlement Fee by such date, the Finance Authority and Deposit Agreement Counterparty are authorized to cause any balance held in the Construction Fund to be so applied without further direction and authorization from the Participant. Notwithstanding the foregoing, if requested by the Finance Authority, in lieu of the Participant making a Loan Reduction Payment together with any Settlement Fee payment, the Finance Authority may in its discretion require the Participant to hold any remaining balance (inclusive of Loan proceeds and any earnings) in the Construction Fund until such amounts may be applied on the first optional redemption date applicable to the Bonds, and upon any such request, the Participant agrees to cause such amounts to be so held and applied on such date.

(End of Article II)

ARTICLE III

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTICIPANT

Section 3.01. Planning, Design and Construction Covenants. The Participant hereby covenants and agrees with the Finance Authority that the Participant will:

(a) Provide information as requested by the Finance Authority to determine the need for, or to complete any necessary, environmental review or analysis.

(b) Comply with the procurement procedures and affirmative action requirements contained in SRF Policy Guidelines in the Planning, Design and Construction of the Project to the extent that such are to be paid from Loan proceeds.

(c) With respect to prime and first tier contract awards, report minority and women business enterprise utilization in the Planning, Design and Construction of the Project, to the extent that such are to be paid from Loan proceeds, by executing and delivering Agency Form SF 5700-52 to the Finance Authority whenever any agreements or subagreements are awarded. (These reports must be submitted on regular reporting cycles consistent with SRF Policy Guidelines commencing after such agreement or subagreement is awarded.)

(d) Comply with all applicable federal, State and local statutes, rules and regulations relating to the acquisition and construction of the Drinking Water System.

(e) In the event Construction is to be paid from Loan proceeds, prior to an award of any contract for Construction of the Project, obtain a construction permit from the Department and receive the written approval of the Finance Authority (or if approved by the Department prior to May 15, 2005, then the Department in its role as predecessor to the Finance Authority in certain matters related to the Drinking Water SRF Program) of the Preliminary Engineering Report.

(f) Obtain the property rights necessary to construct the Drinking Water System and, in procuring any such rights comply with federal and State law.

(g) In the event Construction is to be paid from Loan proceeds, comply with the federal Davis-Bacon Act, codified at 40 U.S.C. 276a-276a-5 unless separately waived by the Finance Authority.

(h) In the event Construction is to be paid from Loan proceeds, execute and deliver to the Finance Authority Agency Form 4700-4 ("Pre-award Compliance Review Report for Wastewater Treatment Construction Grants") and Agency Form 5700-49 ("Certification Regarding the Debarment, Suspension, and Other Responsibility Matters").

(i) In the event Construction is to be paid from Loan proceeds, follow guidance issued by the Finance Authority in procuring contracts for Construction, including (1) submission to the Finance Authority (or if submitted to the Department prior to May 15, 2005, then the Department in its role as predecessor to the Finance Authority in certain matters related to the Drinking Water SRF Program) of Project change orders, (2) obtaining approval from the Director of Environmental Programs of any Project change order which significantly changes the scope or Design of the Project or, when taking into account other change orders and contracts, are reasonably expected to result in expenditures in an amount greater than the Loan, (3) receiving approval from the Director of Environmental Programs prior to the award of any contract for Construction and (4) receiving authorization from the Director of Environmental Programs prior to initiating procurement of Construction of the Project.

(j) In the event Construction is to be paid from Loan proceeds, before awarding Construction contracts, receive approval of the Director of Environmental Programs for

the user charge system (including any use ordinance and interlocal agreement) associated with the Project.

(k) In the event Construction is to be paid from Loan proceeds, cause the Project to be constructed in accordance with the Preliminary Engineering Report and the Plans and Specifications, using approved contract papers.

(l) Permit the Finance Authority and its agents to inspect from time to time (1) the Project, (2) the Drinking Water System and (3) the books and other financial records of the Drinking Water System, including the inspections described in SRF Policy Guidelines. Construction contracts shall provide that the Finance Authority or its agents will have access to the Project and the work related thereto and that the Participant's contractor will provide proper facilities for such access and inspection. All files and records pertaining to the Project shall be retained by the Participant for at least six years after Substantial Completion of Construction.

(m) Upon Substantial Completion of Construction and when requested by the Finance Authority, provide audited reports to the Finance Authority to permit the Finance Authority to determine that the Loan proceeds have been used in compliance with this Agreement.

(n) In the event Construction is to be paid from Loan proceeds, within one year of Substantial Completion of Construction, consistent with SRF Policy Guidelines, certify to the Finance Authority that the Project meets performance standards, or if not met, (1) submit to the Finance Authority (or if directed by the Finance Authority, to the Department) a corrective action plan and (2) promptly and diligently undertake any corrective action necessary to bring the Project into compliance with such standards.

(o) In the event Construction is to be paid from Loan proceeds, within one year of Substantial Completion of Construction, provide as-built plans for the Project to the Finance Authority (or if directed by the Finance Authority, to the Department).

Section 3.02. General Covenants. The Participant hereby covenants and agrees with the Finance Authority that the Participant will:

(a) Comply with all applicable federal, State and local statutes, rules and regulations relating to Operation and Maintenance.

(b) (1) Own, operate and maintain the Project and the Drinking Water System for their useful life, or cause them to be operated and maintained for their useful life; (2) at all times maintain the Drinking Water System in good condition and operate it in an efficient manner and at a reasonable cost; and (3) not sell, transfer, lease or otherwise encumber the Drinking Water System or any portion thereof or any interest therein without the prior written consent of the Finance Authority.

(c) Obtain and maintain the property rights necessary to operate and maintain the Drinking Water System, and in procuring any such rights, comply with federal and State law.

(d) Acquire and maintain insurance coverage acceptable to the Finance Authority, including fidelity bonds, to protect the Drinking Water System and its operations. All insurance shall be placed with responsible insurance companies qualified to do business under State law. Insurance proceeds and condemnation awards shall be used to replace or repair the Drinking Water System unless the Finance Authority consents to a different use of such proceeds or awards.

(e) Establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the Drinking Water System in accordance with (1) generally accepted governmental accounting principles, as promulgated by the Government Accounting Standards Board and (2) the rules, regulations and guidance of the State Board of Accounts.

(f) Provide to the Finance Authority such periodic financial and environmental reports as it may request from time to time, including (1) annual operating and capital budgets and (2) such other information requested or required of the Finance Authority or the Participant by the Agency.

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

(h) (1) Establish and maintain just and equitable rates and charges for the use of and the service rendered by the Drinking Water 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 Drinking Water System, or that in any way uses or is served by the Drinking Water System, (2) establish, adjust and maintain rates and charges at a level adequate to produce and maintain sufficient revenue (including user and other charges, fees, income or revenues available to the Participant) to provide for the proper Operation and Maintenance of the Drinking Water System, to comply with and satisfy all covenants contained herein and to pay all obligations of the Drinking Water System and of the Participant with respect thereto, and (3) if and to the extent Bonds are payable from property taxes, levy each year a special ad valorem tax upon all property located in the boundaries of the Participant, to pay all obligations of the Participant with respect thereto.

(i) If the Bonds are payable from the revenues of the Drinking Water System, not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the Drinking Water System without the prior written consent of the Finance Authority if such undertaking would involve, commit or use the revenues of the Drinking Water System; provided that the Participant may authorize and issue additional obligations, payable out of the revenues of its Drinking Water System, ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions and improvements to the Drinking Water System, or to refund obligations of the Drinking Water System, subject to the conditions, if any, in the Authorizing Instrument.

(j) Comply with the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000d *et seq.*, the Age Discrimination Act, as amended, Public Law 94-135, Section 504 of the Rehabilitation Act of 1973, as amended (including Executive Orders 11914 and 11250), 29 U.S.C. Section 794, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, Executive Order 11246 regarding equal employment opportunity, and Executive Orders 11625 and 12138.

(k) Undertake all actions necessary to investigate all potential, material claims which the Participant may have against other persons with respect to the Drinking Water System and the Project and take whatever action is necessary or appropriate to (1) recover on any actionable, material claims related to the Project or the Planning, Design or Construction thereof, (2) meet applicable Project performance standards and (3) otherwise operate the Drinking Water System in accordance with applicable federal, State and local law.

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

(m) In the event the Participant adopts an ordinance or resolution to refund the Bonds, within 5 days of the adoption of the ordinance or resolution, provide written notice to the Finance Authority of the refunding. Any refunding of the Bonds shall only be undertaken by the Participant with the prior written consent of the Finance Authority.

(n) In any year in which disbursements exceed \$500,000 the Participant shall comply with the Single Audit Act (SAA) of 1984, as amended by the Single Audit Act Amendments of 1996 (see Circular A-133) and have an audit of their use of Federal financial assistance. The Participant agrees to provide the Finance Authority with a copy of the SAA audit within 9 months of the audit period.

(o) Inform the Finance Authority of any findings and recommendations pertaining to the SRF program contained in an A-133 audit in which SRF Federal financial assistance was less than \$500,000.

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

(q) Notwithstanding anything in the Authorizing Instrument related to the Bonds (or in any authorizing instrument related to any other outstanding bonds payable from the revenues of the Drinking Water System which are on a parity with the Bonds) to the contrary, in the event any Credit Provider that has provided a Credit Instrument fails to be rated on a long term basis at least "A-/A3" by Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies, and Moody's Investors Service, Inc., and their successors (such Credit Instrument, a "Disqualified Instrument"), within 12 months of such failure, the Participant shall cause cash (or a replacement Credit Instrument from a Credit Provider that is rated on a long term basis at least "AA-/Aa3" by Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies, and Moody's Investors Service, Inc., and their successors)(or some combination thereof) in an aggregate amount equal to the stated credit available under the Disqualified Instrument(s) to be deposited in the related reserve account(s) in lieu of such Disqualified Instrument(s). No Disqualified Instrument shall be included as part of the reserve balance which satisfies any such reserve requirement under any such authorizing instrument. Nothing in this subsection shall waive or modify additional requirements contained in any such authorizing instrument (including the Authorizing Instrument related to the Bonds); the provisions of this subsection and any such authorizing instrument (including the Authorizing Instrument related to the Bonds) shall both be required to be met.

(r) Comply with all federal requirements applicable to the Loan when funded with the 20__ Recovery Grant (including those imposed by the American Recovery and Reinvestment Act and related SRF Policy Guidelines) which the Participant understands includes, among other, requirements that all of the iron, steel, and manufactured goods used in the Project be produced in the United States unless the Participant has requested, and the Finance Authority has obtained, a waiver from the Agency pertaining to the Project.

Section 3.03. Representations and Warranties of the Participant. After due investigation and inquiry, the Participant hereby represents and warrants to the Finance Authority that:

(a) The Participant is duly organized and existing under state law, and constitutes a "political subdivision" within the meaning of I.C. 13-11-2-164 and a "participant" within the meaning of I.C. 13-11-2-151.1. The Project and the Drinking Water System are subject to I.C. 8-1.5.

(b) The Participant and its Drinking Water System are subject to the jurisdiction of the Commission under I.C. 8-1-2 or any other applicable law and the Project and the Bonds are subject to the Commission's review and approval requirements. If the Participant or its Drinking Water System is subject to the jurisdiction of the Commission under I.C. 8-1-2 or any other applicable law, the Commission has reviewed and approved the Project and the issuance of the Bonds and no additional approvals or consents are required to be obtained from the Commission related thereto.

(c) The Participant has full power and authority to adopt the Authorizing Instrument, enter into this Agreement and issue the Bonds and perform its obligations hereunder and thereunder.

(d) By all required action, the Participant has duly adopted the Authorizing Instrument and authorized the execution and delivery of this Agreement, the Bonds and all other papers delivered in connection herewith.

(e) Neither the execution of, nor the consummation of the transaction contemplated by, this Agreement nor the compliance with the terms and conditions of any other paper referred to herein, shall conflict with, result in a breach of or constitute a default under, any indenture, mortgage, lease, agreement or instrument to which the Participant is a party or by which the Participant or its property, including the Drinking Water System, is bound or any law, regulation, order, writ, injunction or decree of any court or governmental agency or instrumentality having jurisdiction.

(f) There is no litigation pending or, to the knowledge of the Participant, upon investigation, threatened that (1) challenges or questions the validity or binding effect of this Agreement, the Authorizing Instrument or the Bonds or the authority or ability of the Participant to execute and deliver this Agreement or the Bonds and perform its obligations hereunder or thereunder or (2) would, if adversely determined, have a significant adverse effect on the ability of the Participant to meet its obligations under this Agreement, the Authorizing Instrument or the Bonds.

(g) The Participant has not at any time failed to pay when due interest or principal on, and it is not now in default under, any warrant or other evidence of obligation or indebtedness of the Participant.

(h) All information furnished by the Participant to the Finance Authority or any of the persons representing the Finance Authority in connection with the Loan or the Project is accurate and complete in all material respects including compliance with the obligations, requirements and undertakings imposed upon the Participant pursuant to this Agreement.

(i) The Participant has taken or will take all proceedings required by law to enable it to issue and sell the Bonds as contemplated by this Agreement.

(j) For any outstanding bonds payable from the revenues of the Drinking Water which are on a parity with the Bonds, each Credit Provider, if any, that has provided a Credit Instrument is at least rated on a long term basis "A-/A3" long term by Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies and Moody's Investors Service, Inc., and their successors.

Each of the foregoing representations and warranties will be deemed to have been made by the Participant as of the date of this Agreement and as of the date of any disbursement of Loan proceeds (including from the Construction Fund). Each of the foregoing representations and warranties shall survive the Loan disbursements regardless of any investigation or investigations the Finance Authority may have undertaken.

Section 3.04. Covenants Regarding Assignment. The Participant acknowledges that the Finance Authority may pledge, sell or assign the Bonds or cause the Bonds to be pledged, sold or assigned, and certain of its rights related thereto, as permitted pursuant to Section 5.02 herein. The Participant covenants and agrees to cooperate with and assist in, at its expense, any such assignment. Within 30 days following a request by the Finance Authority, the Participant covenants and agrees with the Finance Authority that the Participant will, at its expense, furnish any information, financial or otherwise, with respect to the Participant, this Agreement, the Authorizing Instrument and the Bonds and the Drinking Water System as the Finance Authority reasonably requests in writing to facilitate the sale or assignment of the Bonds.

Section 3.05. Nature of Information. All information furnished by the Participant to the Finance Authority or any person representing the Finance Authority in connection with the Loan or the Project may be furnished to any other person the Finance Authority, in its judgment, deems necessary or desirable in its operation and administration of the Drinking Water SRF Program.

Section 3.06. Tax Covenants. The Participant hereby covenants that it will not take, or cause or permit to be taken by it or by any party under its control, or fail to take or cause to permit to be taken by it or by any party under its control, any action that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the 20__ Bonds pursuant to Section 103 of the Code. The Participant further covenants that it will not do

any act or thing that would cause the 20__ Bonds to be “private activity bonds” within the meaning of Section 141 of the Code or “arbitrage bonds” within the meaning of Section 148 of the Code. In furtherance and not in limitation of the foregoing, the Participant shall take all action necessary and appropriate to comply with the arbitrage rebate requirements under Section 148 of the Code to the extent applicable to the Participant or the 20__ Bonds, including accounting for and making provision for the payment of any and all amounts that may be required to be paid to the United States of America from time to time pursuant to Section 148 of the Code.

Section 3.07. Non-Discrimination Covenant. Pursuant to and with the force and effect set forth in I.C. 22-9-1-10, the Participant hereby covenants that the Participant, and its contractor and subcontractor for the Project, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to the hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry.

(End of Article III)

ARTICLE IV **DEFAULTS**

Section 4.01. Remedies. The Finance Authority's obligation to make a disbursement under the Loan to the Participant hereunder may be terminated at the option of the Finance Authority, without giving any prior notice to the Participant, in the event: (a) the Participant fails to undertake or perform in a timely manner any of its agreements, covenants, terms or conditions set forth herein or in any paper entered into or delivered in connection herewith (including the Authorizing Instrument); or (b) any representation or warranty made by the Participant as set forth herein or in any paper entered into or delivered in connection herewith is materially false or misleading. Any such event shall constitute an event of default and in addition to any other remedies at law or in equity, the Finance Authority may (x) require a Loan Reduction Payment pursuant to Section 2.06 as if it were a date that was three (3) years after the dated date of the Bonds, (y) in the event a Deposit Agreement has not previously been entered into related to the Participant's Bond Fund (including any related reserve), require the Participant to enter into a Deposit Agreement (or to modify any such previously entered Deposit Agreement) and the Participant shall enter into (or modify) such an agreement within 5 days after any such demand and (z) without giving any prior notice, declare the entire outstanding principal amount of the Loan, together with accrued interest thereon, immediately due and payable.

Section 4.02. Effect of Default. Failure on the part of the Finance Authority in any instance or under any circumstance to observe or perform fully any obligation assumed by or imposed upon the Finance Authority by this Agreement or by law shall not make the Finance Authority liable in damages to the Participant or relieve the Participant from paying any Bond or fully performing any other obligation required of it under this Agreement or the Authorizing Instrument; provided, however, that the Participant may have and pursue any and all other remedies provided by law for compelling performance by the Finance Authority of such obligation assumed by or imposed upon the Finance Authority. The obligations of the Finance Authority hereunder do not create a debt or a liability of the Finance Authority or the State under the constitution of the State or a pledge of the faith or credit of the Finance Authority or the State and do not directly, indirectly or contingently, obligate the Finance Authority or the State to levy any form of taxation for the payment thereof or to make any appropriation for their payment. Neither the Finance Authority or the State, nor any agent, attorney, member or employee of the Finance Authority or the State shall in any event be liable for damages, if any, for the nonperformance of any obligation or agreement of any kind whatsoever set forth in this Agreement.

Section 4.03. Defaults under other Financial Assistance Agreements. The Participant and the Finance Authority agree that any event of default occurring under the Prior Agreements shall constitute an event of default under this Agreement. Similarly, the Participant and the Finance Authority agree that any event of default under this Agreement, or under any subsequent financial assistance agreement entered into between the Participant and the Finance Authority, shall constitute an event of default under the Prior Agreements and the subsequent financial assistance agreement, if any, as the case may be.

(End of Article IV)

ARTICLE V

MISCELLANEOUS

Section 5.01. Citations. Any reference to a part, provision, section or other reference description of a federal or State statute, rule or regulation contained herein shall include any amendments, replacements or supplements to such statutes, rules or regulation as may be made effective from time to time. Any reference to a Loan disbursement shall include any disbursement from the Construction Fund. Any use of the term “including” herein shall not be a limitation as to any provision herein contained but shall mean and include, without limitation, the specific matters so referenced.

Section 5.02. Assignment. Neither this Agreement, nor the Loan or the proceeds thereof may be assigned by the Participant without the prior written consent of the Finance Authority and any attempt at such an assignment without such consent shall be void. The Finance Authority may at its option sell or assign all or a portion of its rights and obligations under this Agreement, the Authorizing Instrument, and the Bonds to an agency of the State or to a separate body corporate and politic of the State or to a trustee under trust instrument to which the Finance Authority, the State or any assignee is a beneficiary or party. The Finance Authority may at its option pledge or assign all or a portion of its rights under this Agreement, the Authorizing Instrument, and the Bonds to any person. The Participant hereby consents to any such pledge or assignment by the Finance Authority. This Agreement shall be binding upon and inure to the benefit of any permitted secured party, successor and assign.

Section 5.03. No Waiver. Neither the failure of the Finance Authority nor the delay of the Finance Authority to exercise any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other further exercise of any other right, power or privilege.

Section 5.04. Modifications. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto. The Participant understands that the Finance Authority, pursuant to Public Law 235-2005, by operation of law and effective May 15, 2005, has become the successor to the State and the Bond Bank, and agrees to such as if the Prior Agreements (and the Authorizing Instrument and the Bonds referenced in such Prior Agreements and all other collateral agreements and understandings thereto), were amended and restated contemporaneously herewith to such force and effect.

Section 5.05. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and there are no promises, agreements, conditions, undertakings, warranties and representations, either written or oral, expressed or implied between the parties hereto other than as herein set forth or as may be made in the Authorizing Instrument and the other papers delivered in connection herewith. In the event there is a conflict between the terms of this Agreement and the Authorizing Instrument, the terms of this Agreement shall control. It is expressly understood and agreed that except as otherwise provided herein this Agreement represents an integration of any and all prior and contemporaneous promises, agreements, conditions, undertakings, warranties and representations between the parties hereto. This Agreement shall not be deemed to be a merger or integration of the existing terms under the Prior Agreements except as expressly set forth in Section 4.03 herein.

Section 5.06. Execution of Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be executed by the Finance Authority and the Participant, and all of which shall be regarded for all purposes as one original and shall constitute one and the same instrument.

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

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

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

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

City of Bloomington
City Hall
P.O. Box 100
Bloomington, Indiana 47402
Attention: Controller

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

Section 5.09. Expenses. The Participant covenants and agrees to pay (a) the fees, costs and expenses in connection with making the Loan, including issuing the Bonds and providing the necessary certificates, documents and opinions required to be delivered therewith; (b) the fees, costs and expenses in connection with making and administering the Loan; (c) the costs and expenses of complying with its covenants made herein; and (d) any and all costs and expenses, including attorneys' fees, incurred by the Finance Authority in connection with the enforcement of this Agreement, the Authorizing Instrument and the Bonds in the event of the breach by the Participant of or a default under this Agreement, the Authorizing Instrument or the Bonds. Notwithstanding clause (b) above, the Participant shall not be obligated to pay any of the fees, costs and expenses in connection with administering the Loan except as follows: (1) the Finance Authority may request and the Participant shall promptly pay (no later than the date first above written), a closing fee in connection with the Loan in an amount determined by the Finance Authority, but not exceeding \$1,000, which may not be paid from a Loan disbursement; (2) the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), an annual administrative fee in connection with the Loan in an amount determined by the Finance Authority, but not exceeding \$1,000, which may not be paid from a Loan disbursement; (3) the Finance Authority may request and the Participant shall promptly pay (no later than ten (10) days after any request), any Settlement Fee; (4) the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), a Non-Use Fee in connection with the Loan, which may not be paid from a Loan disbursement; (5) for so long as the Finance Authority is the registered owner of the Bonds, at the direction of the Finance Authority, the interest rate on the Bonds may be adjusted to lower the interest rate on the Bonds, and the difference between the amount payable as the original rate on the Bonds and the lower rate shall be deemed an additional administrative fee in connection with the Drinking Water SRF Program; and (6) the Participant shall only be obligated to pay fees, costs and expenses of the Finance Authority's counsel and financial advisers in connection with making the Loan up to \$10,000, which may be paid from a Loan disbursement.

Section 5.10. Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana.

Section 5.11. Term. This Agreement shall terminate at such time as the Participant has fully met and discharged all of its obligations hereunder, which term may extend beyond the final payment of the Bonds or provision for the payment of the Bonds pursuant to the Authorizing Instrument.

Section 5.12. Non-Collusion. The undersigned attests, subject to the penalties of perjury, that he/she is an authorized officer or representative of the Participant, that he/she has not, nor has any other officer or representative of the Participant, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive pay, and that the undersigned has not received or paid any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of the agreement or is a payment to lawyers, accountants and engineers by the Participant related to customary services rendered in connection with the Loan.

Section 5.13. Federal Award Information. The Catalogue of Federal Domestic Assistance ("CFDA") Number for the Authority's Drinking Water SRF Program is 66.468 and the Federal Agency & Program Name is "US Environmental Protection Agency Capitalization Grant for Drinking Water State Revolving Funds."

(End of Article V)

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BEEN INTENTIONALLY LEFT BLANK]

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

CITY OF BLOOMINGTON, INDIANA

INDIANA FINANCE AUTHORITY

“Participant”

“Finance Authority”

By: _____

By: _____

Printed: _____

James P. McGoff
Director of Environmental Programs

Title: _____

Attested by Finance Authority Staff:

Attest: _____

By: _____

EXHIBIT A

The Project involves the following improvements:

- [to be provided].

The Project is more fully described in, and shall be in accordance with, the Preliminary Engineering Report and the Plans and Specifications approved by the Finance Authority (or if designated by the Finance Authority, the Department).

EXHIBIT B
Principal Payment Schedule for the 20 Bonds

<u>Maturity Date</u>	<u>Total Loan Principal Amount</u>
1/1/2011	
7/1/2011	
1/1/2012	
7/1/2012	
1/1/2013	
7/1/2013	
1/1/2014	
7/1/2014	
1/1/2015	
7/1/2015	
1/1/2016	
7/1/2016	
1/1/2017	
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7/1/2026	
1/1/2027	
7/1/2027	
1/1/2028	
7/1/2028	
1/1/2029	
7/1/2029	
1/1/2030	
7/1/2030	
1/1/2031	

EXHIBIT D

Form of Continuing Disclosure Agreement

CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (this “Agreement”) is made this ____ day of ____, 20__, from the City of Bloomington, Indiana (the “Promisor”) to each registered owner or holder of any Bond (as hereinafter defined) (each, a “Promisee”);

WITNESSETH THAT:

WHEREAS, the Promisor is issuing its [Waterworks Revenue] Bonds, Series 20__ on the date hereof (the “Bonds”), pursuant to Common Council Ordinance No. ___-__ adopted on ____, 20__; and

WHEREAS, _____ (the “Underwriters”) are, in connection with an offering of the Bonds directly or indirectly by or on behalf of the Promisor, purchasing the Bonds from the Promisor and selling the Bonds to certain purchasers; and

WHEREAS, Rule 15c2-12 (the “Rule”), promulgated by the Securities and Exchange Commission (the “Commission”) under the Securities Exchange Act of 1934, as amended (the “Act”), provides that, except as otherwise provided in the Rule, a participating underwriter (as defined in the Rule) shall not purchase or sell municipal securities in connection with an offering (as defined in the Rule) unless the participating underwriter has reasonably determined that an issuer of municipal securities (as defined in the Rule) or an obligated person (as defined in the Rule) for whom financial or operating data is presented in the final official statement (as defined in the Rule) has undertaken, either individually or in combination with other issuers of such municipal securities or obligated persons, in a written agreement or undertaking for the benefit of holders of such securities, to provide certain information; and

WHEREAS, the Promisor desires to enter into this Agreement in order to assist the Underwriters in complying with the Rule; and

WHEREAS, any registered owner or holder of any Bond shall, by its payment for and acceptance of such Bond, accept and assent to this Agreement and the exchange of (i) such payment and acceptance for (ii) the promises of the Promisor contained herein;

NOW, THEREFORE, in consideration of the Underwriters’ and any Promisee’s payment for and acceptance of any Bonds, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Promisor hereby promises to each Promisee as follows:

Section 1. Definitions. The terms defined herein, including the terms defined above and in this Section 1, shall have the meanings herein specified unless the context or use clearly indicates another or different meaning or intent. Any terms defined in the Rule, but not otherwise defined herein, shall have the meanings specified in the Rule unless the context or use clearly indicates another or different meaning or intent.

- (a) “Bond” shall mean any of the Bonds.
- (b) “Bondholder” shall mean any registered or beneficial owner or holder of any Bond.
- (c) “City” shall mean the City of Bloomington, Indiana.
- (d) “Fiscal Year” of any person shall mean any period from time to time adopted by such person as its fiscal year for accounting purposes.
- (e) “MSRB” shall mean the Municipal Securities Rulemaking Board.
- (f) “Obligated Person” shall mean any person who is either generally or through an enterprise, fund or account of such person committed by Agreement or other arrangement to support payment of all or part of the obligations on the Bonds (other than any providers of municipal bond insurance, letters of credit or liquidity facilities), for whom financial information or operating data is presented in the Official Statement.
- (g) “Official Statement” shall mean the Official Statement, dated ____, 20__, relating to the Bonds, including any document included therein by specific reference which is available to the public on the MSRB’s Internet

Website or filed with the Commission, and, if such document is a final official statement, available from the MSRB.

- (h) “State” shall mean the State of Indiana.

Section 2. Term. The term of this Agreement shall commence on the date of delivery of the Bonds by the Promisor to the Underwriters and shall expire on the earlier of (a) the date of payment in full of principal of and premium, if any, and interest on the Bonds, whether upon scheduled maturity, redemption, acceleration or otherwise, or (b) the date of defeasance of the Bonds in accordance with the terms of the Indenture.

Section 3. Obligated Person. The Promisor hereby represents and warrants that, as of the date hereof:

- (a) The Promisor is the issuer of the Bonds and the only Obligated Person with respect to the Bonds; and
- (b) Except as may be disclosed in the Official Statement, there have been no instances in the five (5) years prior to the date of the Final Official Statement in which the Promisor failed to comply, in all material respects, with any previous undertakings in a written Agreement or agreement specified in paragraph (b)(5)(i) of the Rule.

Section 4. Undertaking to Provide Information.

- (a) The Promisor hereby undertakes to provide either directly or indirectly through an indenture trustee or a designated agent the following to the MSRB in an electronic format as prescribed by the MSRB:
- (i) When and if available, the audited comprehensive annual financial report of the City for each twelve (12) month period ending December 31st, beginning with the twelve (12) month period ending December 31, 20__, together with the opinion of such accountants and all notes thereto, within sixty (60) days of receipt from the certified public accountants;
- (ii) Within 180 days of each December 31st, beginning with the calendar year ending December 31, 20__, unaudited annual financial information for the City for such calendar year (the “Annual Financial Information”) including (i) unaudited financial information of the City if audited financial statements are not available; (ii) the information contained in the Official Statement under the headings/tables entitled _____; and
- (iii) In a timely manner, notice of any of the following events with respect to the Bonds if material:
- (A) Principal and interest payment delinquencies;
- (B) Non-payment related defaults;
- (C) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (D) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (E) Substitution of credit or liquidity providers, or their failure to perform;
- (F) Adverse tax opinions or events affecting the tax-exempt status of the security;

- (G) Modifications to rights of security holders;
 - (H) Bond calls (other than mandatory, scheduled redemptions, not otherwise contingent upon the occurrence of an event, the terms of which redemptions are set forth in detail in the Official Statement);
 - (I) Defeasances;
 - (J) Release, substitution or sale of property securing repayment of the securities; or
 - (K) Rating changes; and
- (iv) In a timely manner, notice of a failure to provide required Annual Financial Information or audited financial statements, on or before the date specified in this Agreement.
- (b) Any financial statements provided pursuant to subsection (a)(i) of this Section 4 shall be prepared in accordance with any accounting principles mandated by the laws of the State, as in effect from time to time, or any other consistent accounting principles that enable market participants to evaluate results and perform year to year comparisons, but need not be audited.
 - (c) Any Annual Financial Information or audited financial statements may be set forth in a document or set of documents, or may be included by specific reference to documents available to the public on the MSRB's Internet Website or filed with the Commission.
 - (d) If any Annual Financial Information otherwise required by subsection (a)(ii) of this Section 4 no longer can be generated because the operations to which it relates have been materially changed or discontinued, a statement to that effect shall be deemed to satisfy the requirements of such subsection.

Section 5. Termination of Obligation. The obligation to provide Annual Financial Information, audited financial statements and notices of events under Section 4(a) hereof shall terminate with respect to any Obligated Person, if and when such Obligated Person no longer remains an obligated person (as defined in the Rule) with respect to the Bonds.

Section 6. Bondholders. Each Bondholder is an intended beneficiary of the obligations of the Promisor under this Agreement, such obligations create a duty in the Promisor to each Bondholder to perform such obligations, and each Bondholder shall have the right to enforce such duty.

Section 7. Limitation of Rights. Nothing expressed or implied in this Agreement is intended to give, or shall give, to the Underwriters, the Commission or any Obligated Person, or any underwriter, brokers or dealers, or any other person, other than the Promisor, each Promisee and each Bondholder, any legal or equitable right, remedy or claim under or with respect to this Agreement or any rights or obligations hereunder. This Agreement and the rights and obligations hereunder are intended to be, and shall be, for the sole and exclusive benefit of the Promisor, each Promisee and each Bondholder.

Section 8. Remedies.

- (a) The sole and exclusive remedy for any breach or violation by the Promisor of any obligation of the Promisor under this Agreement shall be the remedy of specific performance by the Promisor of such obligation. Neither any Promisee nor any Bondholder shall have any right to monetary damages or any other remedy for any breach or violation by the Promisor of any obligation of the Promisor under this Agreement, except the remedy of specific performance by the Promisor of such obligation.

- (b) No breach or violation by the Promisor of any obligation of the Promisor under this Agreement shall constitute a breach or violation of or default under the Bonds or the Indenture.
- (c) Any action, suit or other proceeding for any breach or violation by the Promisor of any obligation of the Promisor under this Agreement shall be instituted, prosecuted and maintained only in a court of competent jurisdiction in Monroe County, Indiana.
- (d) No action, suit or other proceeding for any breach or violation by the Promisor of any obligation of the Promisor under this Agreement shall be instituted, prosecuted or maintained by any Promisee or any Bondholder unless, prior to instituting such action, suit or other proceeding: (i) such Promisee or such Bondholder has given the Promisor notice of such breach or violation and demand for performance; and (ii) the Promisor has failed to cure such breach or violation within sixty (60) days after such notice.

Section 9. Waiver. Any failure by any Promisee or any Bondholder to institute any suit, action or other proceeding for any breach or violation by the Promisor of any obligation of the Promisor under this Agreement, within three hundred sixty (360) days after the date such Promisee or such Bondholder first has knowledge of such breach or violation, shall constitute a waiver by such Promisee or such Bondholder of such breach or violation and, after such waiver, no remedy shall be available to such Promisee or such Bondholder for such breach or violation.

Section 10. Limitation of Liability. The obligations of the Promisor under this Agreement are special and limited obligations of the Promisor, payable solely from the trust estate under the Indenture. The obligations of the Promisor under this Agreement are not and shall never constitute a general obligation, debt or liability of the Promisor or the State, or any political subdivision thereof, within the meaning of any constitutional limitation or provision, or a pledge of the faith, credit or taxing power of the Promisor or the State, or any political subdivision thereof, and do not and shall never constitute or give rise to any pecuniary liability or charge against the general credit or taxing power of the Promisor or the State, or any political subdivision thereof.

Section 11. Immunity of Officers, Directors, Members, Employees and Agents. No recourse shall be had for any claim based upon any obligation in this Agreement against any past, present or future officer, director, member, employee or agent of the Promisor, as such, either directly or through the Promisor, under any rule of law or equity, statute or constitution.

Section 12. Amendment of Obligations. The Promisor may, from time to time, amend any obligation of the Promisor under this Agreement, without notice to or consent from any Promisee or any Bondholder, if: (a)(i) such amendment is made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of any Obligated Person, or type of business conducted, (ii) this Agreement, after giving effect to such amendment, would have complied with the requirements of the Rule on the date hereof, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances, and (iii) such amendment does not materially impair the interests of any Bondholders, as determined either by (A) any person selected by the Promisor that is unaffiliated with the Promisor or any Obligated Person (such as any trustee under the Indenture) or (B) an approving vote of the Bondholders pursuant to the terms of the Indenture at the time of such amendment; or (b) such amendment is otherwise permitted by the Rule.

Section 13. Assignment and Delegation. Neither any Promisee nor any Bondholder may, without the prior written consent of the Promisor, assign any of its rights under this Agreement to any other person. The Promisor may not assign any of its rights or delegate any of its obligations under this Agreement to any other person, except that the Promisor may assign any of its rights or delegate any of such obligations to any entity (a) into which the Promisor merges, with which the Promisor consolidates or to which the Promisor transfers all or substantially all of its assets or (b) which agrees in writing for the benefit of Bondholders to assume such rights or obligations.

Section 14. Communications. Any information, datum, statement, notice, certificate or other communication required or permitted to be provided, delivered or otherwise given hereunder by any person to any other person shall be in writing and, if such other person is the Promisor, shall be provided, delivered or otherwise given to the Promisor at the following address:

City of Bloomington
City Hall
401 North Morton Street
Bloomington, Indiana 47402
Attn: Controller

(or at such other address as the Promisor may, by notice to the MSRB, provide), or, if such other person is not the Promisor, shall be provided, delivered or otherwise given to such other person at any address that the person providing, delivering or otherwise giving such information, datum, statement, notice, certificate or other communication believes, in good faith but without any investigation, to be an address for receipt by such other person of such information, datum, statement, notice, certificate or other communication. For purposes of this Agreement, any such information, datum, statement, notice, certificate or other communication shall be deemed to be provided, delivered or otherwise given on the date that such information, datum, notice, certificate or other communication is (a) delivered by hand to such other person, (b) deposited with the United States Postal Service for mailing by registered or certified mail, (c) deposited with Express Mail, Federal Express or any other courier service for delivery on the following business day, or (d) sent by facsimile transmission, teletype or telegram.

Section 15. Knowledge. For purposes of this Agreement, each Promisee and each Bondholder shall be deemed to have knowledge of the provision and content of any information, datum, statement or notice provided by the Promisor to the MSRB on the date such information, datum, statement or notice is so provided, regardless of whether such Promisee or such Bondholder was a registered or beneficial owner or holder of any Bond at the time such information, datum, statement or notice was so provided.

Section 16. Performance Due on other than Business Days. If the last day for taking any action under this Agreement is a day other than a business day, such action may be taken on the next succeeding business day and, if so taken, shall have the same effect as if taken on the day required by this Agreement.

Section 17. Waiver of Assent. Notice of acceptance of or other assent to this Agreement is hereby waived.

Section 18. Governing Law. This Agreement and the rights and obligations hereunder shall be governed by and construed and enforced in accordance with the internal laws of the State, without reference to any choice of law principles.

Section 19. Severability. If any portion of this Agreement is held or deemed to be, or is, invalid, illegal, inoperable or unenforceable, the validity, legality, operability and enforceability of the remaining portions of this Agreement shall not be affected, and this Agreement shall be construed as if it did not contain such invalid, illegal, inoperable or unenforceable portion.

Section 20. Rule. This Agreement is intended to be an agreement or Agreement in which the Promisor has undertaken to provide that which is required by paragraph (b)(5) of the Rule. If and to the extent this Agreement is not such an agreement or Agreement, this Agreement shall be deemed to include such terms not otherwise included herein, and to exclude such terms not otherwise excluded herefrom, as are necessary to cause this Agreement to be such an agreement or undertaking.

Section 21. Interpretation. The use herein of the singular shall be construed to include the plural, and vice versa, and the use herein of the neuter shall be construed to include the masculine and feminine. Unless otherwise indicated, the words "hereof," "herein," "hereby" and "hereunder," or words of similar import, refer to this Agreement as a whole and not to any particular section, subsection, clause or other portion of this Agreement.

Section 22. Captions. The captions appearing in this Agreement are included herein for convenience of reference only, and shall not be deemed to define, limit or extend the scope of intent of any rights or obligations under this Agreement.

IN WITNESS WHEREOF, the Promisor has caused this Agreement to be executed on the date first above written.

THE CITY OF BLOOMINGTON, INDIANA

By: _____
_____, Mayor

Attest:

By: _____
_____, Controller

In the Council Chambers of the Showers City Hall on Wednesday, October 7, 2009 at 7:30 pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
October 7, 2009

Roll Call: Mayer, Piedmont-Smith, Ruff, Sandberg, Satterfield, Sturbaum, Volan, Wisler
Absent: Rollo

ROLL CALL

Council President Ruff gave the Agenda Summation

AGENDA SUMMATION

There were no minutes to be approved at this meeting.

APPROVAL OF MINUTES

There were no committee reports at this meeting.

REPORTS:

Tim Mayer reported that he attended the Indiana Association of Cities and Towns Municipal Day in West Baden on October 5th. He said he attended several seminars, and added that Adam Wason, Assistant Director of Economic Development for Small Business and Sustainable Development made a presentation there as well. Mayer said that this was National Adopt a Shelter Dog month and invited folks to a movie at the Monroe County Public Library on Saturday, Oct 10. He praised the local animal shelter for their work and the administration for their support of the shelter.

COUNCILMEMBERS

Mike Satterfield said he also attended the IACT Municipal Day. He noted that the Census 2010 was searching for workers for the upcoming census.

Chris Sturbaum talked about the two native Indiana fruits, pawpaws and persimmons. He had samples of each and talked about each.

Steve Volan said he recently adopted a cat, and noted Mayer's adoptable dog opportunity.

Susan Sandberg promoted "There's No Place Like Home" an affordable housing and emergency shelter town hall meeting to take place in council chambers on October 20, 2009. She said it was hosted by the Community and Family Resources Commission.

Isabel Piedmont-Smith noted a National Equality March would take place on October 10th and 11th in Washington DC and in Bloomington. She said they would demand equality for all citizens, and would urge the federal government to protect equal rights for all.

Andy Ruff noted he had received a copy of a recent report from the Bureau of Labor Statistics of Metropolitan Employment and Unemployment for the summer months. He said that Bloomington, Evansville and Indianapolis were the three lowest in unemployment in the state. He said that the Interstate from Indy to Evansville was being touted on the pretext of unemployment and said he found this ironic compared to this finding. He said resources should be carefully invested and real interests driving this project should be noted.

Mayor Mark Kruzan introduced Mary Jane Hall, Bloomington INbloom, who briefly discussed the awards for the Fall 2009 Commercial, Municipal and Multifamily Curb Appeal Contest. Hall thanked everyone who participated in making Bloomington a prettier city.

MAYOR and CITY OFFICES

- Mayor Kruzan presented the winners with their plaques. For multi family properties, the winners were broken down into four categories.
- For individual doorways, the winner was Mark Kranner.

- For less than 10 units, the winner was Nora Liell.
- For 11 units or more, the winners were Max and Gilda Lauchi; Nora Liell was the runner-up.
- For entrance areas, the winner was John Burnham of Burnham Rentals; the runner up was Redbud Hills.
- The not-for-profit winner was Jean Gunning of WonderGarden; Bloomington Hospital was the runner up.
- The Municipal/Publicly owned winners were Mia Williams and Mike Crowe, who won for Bryan House; the runners up were Hoagy Carmichael Plaza and the Whittenberger Auditorium Entrance to the Indiana Memorial Union, both of which were also done by Mia Williams and Mike Crowe.
- The Commercial-Large installation winner was Robin Walls/CFC for Fountain Square; the runners up were Deer Park, 400 S. Landmark, and Cook Pharmica.
- The Commercial-Small installation winner was Mike Hayes for German-American Group; the runner up was Jerry Neely for Rogers Investment Group.

Mayor Kruzan thanked the Council for their time and everyone who participated.

Ruff thanked the Mayor and everyone in the community who helped to make Bloomington a better place.

There were no council committee reports at this meeting.

COUNCIL COMMITTEES

Dee Hope Sanders thanked Piedmont-Smith for reminding people about the LGBT Equality Event that was to take place on Sunday. She said that the event was open to everyone, and that it was meant to be a celebration.

PUBLIC INPUT

Erin Kessler was the co-organizer for the Equality Event and wanted to stress that the group was very involved in the community, and that the group was really excited about the event. He also stressed that he really wanted to see council members at the event.

There were no appointments to boards or commissions at this meeting.

BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that Appropriation Ordinance 09-08 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do Pass Recommendation of 8-0.

LEGISLATION FOR SECOND READING

It was moved and seconded that Appropriation Ordinance 09-08 be adopted.

Appropriation Ordinance 09-08 To Specially Appropriate from the Electronic Map Generation Fund Expenditures Not Otherwise Appropriated (Appropriating Funds to Retain Consultant for the City's Geographic Information System)

Rick Dietz, Director of Informational and Technology Systems Department noted that the synopsis explained the Appropriation Ordinance and asked if there were any questions about the request for an appropriation to provide for strategic planning assistance regarding the GIS system and how it will be used in the coming years.

There were no public comments or final council comments on this item.

Andy Ruff noted, as he did in the previous committee meeting on this item, that a good friend of his was employed by the firm that might get the consultancy on this project, but said that he could deliberate and vote on this item without prejudice.

Appropriation Ordinance 09-08 received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded that Appropriation Ordinance 09-09 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do Pass Recommendation of 8-0.

It was moved and seconded that Appropriation Ordinance 09-09 be adopted.

Laurie Ringquist, Director of Animal Care and Control, noted that the appropriation was for \$16,498 from PetSmart to improve the shelter kennels.

There was no public comment on this item.

Wisler noted that sometimes national companies don't invest in the community and encouraged folks to donate an extra dollar when they purchase items in pet food stores adding that the money they donate stays in the community.

President Ruff asked Parliamentarian Volan to explain to the students in the chambers why there was so little discussion on the legislative items at this meeting.

Volan briefly explained the three meeting legislative cycle and also clarified the purpose of the Committee of the Whole discussion.

Appropriation Ordinance 09-09 received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded that Resolution 09-08 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do Pass Recommendation of 9-0. It was moved and seconded that Resolution 09-08 be adopted.

Vickie Renfrow, City Legal Department attorney, explained that the protection plan was meant to help prevent identity theft, and that it needed to be approved by November 1, 2009.

Renfrow said that this resolution was needed to bring the city, specifically the Utilities, in compliance with the Red Flag Rule. She said that this refers to regulations that were issued jointly by the Federal Trade Commission, the National Credit Union Administration, and the Federal Bank Regulatory Agencies to implement the Fair Accurate Credit Transaction (FACT Act) of 2003. She explained that this was intended to prevent identity theft as defined as a fraud attempted or committed using indentifying information of another person without authority. She said that the regulations require a creditor who handles covered accounts to adopt a written program for identification, detection, prevention and mitigation of identity theft. She further explained that these programs must identify practices or specific activities known as Red Flags that could indicate identity theft and have responses to those Red Flags. She also noted that the program must be approved by the governing body, and that compliance must be achieved by the beginning of November of 2009.

Renfrow explained that the accounts to be monitored are Utilities accounts that are maintained for personal, family, and household purposes and involve multiple recurring transactions. She said that if identity theft is suspected, the policy articulates specific steps for the Utilities personnel to follow for prevention and mitigation, including monitoring an account for suspicious activity, contacting the customer, closing the account, or contacting law enforcement. She noted that the policy that was developed by Utilities, the IT Department and the Legal

Appropriation Ordinance 09-09 To Specially Appropriate from the General Fund Expenditures Not Otherwise Appropriated (Appropriating a PetSmart Charities Grant for Use by the Animal Care and Control Department)

Resolution 09-08 Approving the City of Bloomington Utility Identity Theft Protection Program

Department follows the sample published in the Federal Register. Renfrow noted that the rule was more focused on entities that provide credit, however the accounts at Utilities fall within the rule. The director of finance at Utilities would be in charge of administering the program and would work with staff to monitor the accounts. She said that after the initial approval of the common council, any modifications to the plan would be approved by the Utilities Service Board.

Resolution 09-08 (cont'd)

Volan asked what the Utility user needed to know about this. Renfrow said that the users would know that their information was being protected, and that the staff would be looking out for any documents presented to open accounts that were altered or didn't look right. She said that this wasn't a big problem with Utility accounts but that awareness was important.

There was no public comment on this item.

Mayer noted that as representative on the Utilities Service Board, the board had reviewed and approved the protection program.

Piedmont-Smith said that her initial response was to ask how customer information was protected, and thanked Vicki Renfrow for her list of 26 ways that the Utilities protects that information. She added that the information discussed and the procedure authorized by this resolution was to detect if fraudulent information was being used to set up an account.

Ruff said that he had been assured there would be no hardship or undue burden for ratepayers or staff, or use/abuse by any other governmental agency. He thanked Renfrow for her response and said that this resolution formalized things that were already being done in an informal way.

Resolution 09-08 received a roll call vote of Ayes: 8 Nays: 0.

It was moved and seconded that Ordinance 09-17 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do Pass Recommendation of 7-0-2. It was moved and seconded that Ordinance 09-17 be adopted.

Ordinance 09-17 To Vacate Four Public Parcels - Re: A Portion of North Madison Street, West 12th Street and Two Alleys Located Between North Rogers Street, the Indiana Railroad, 350 West 11th Street and West 11th Street. (Doug Dayhoff, Upland Brewing Company, Inc., and Middle Court Real Estate, LLC [together "Upland"], Petitioners)

Clerk Moore noted that the public comment portion of this ordinance deliberation would serve as the legally advertised public hearing on the legislation.

Lynn Darland, Zoning & Enforcement Manager in the Planning Department, noted that this request was for the City to vacate four segments of right-of-way and showed the area on a map. She said that Upland, the petitioner would like to expand their business. She added that the City of Bloomington Utilities and Vectren were working on a blanket easement until the second phase of the business expansion. She added, too, that the city would need to maintain the wall of the bridge that was on Rogers Street and needed access to maintain the wall.

She noted that some council members had questions about the timing of notification of adjacent property owners and said that the rule was that the notice had to be done before the final vote. She said that in future projects, the planning department would create a process to notify adjacent property owners of right-of-way vacation requests earlier than the law required.

She noted that during the committee meeting, some council members had questions about the concerns and comments of adjacent property

owners. She noted that she had spoken with the attorney for the Indiana Rail Road who had no objections to the vacations. She said that the Indiana Rail Road had been working with Upland to maintain a fence along the rail road property, but that agreement could not be finalized until after the vacation at hand.

Ordinance 09-17 (cont'd)

She noted that Mr. Baugh's concerns about access were addressed in conversations with Upland. She said that the southern alley to their property would remain open, although this would be an indirect access due to sight issues in using the alley to access Rogers Street. She said Baugh also was concerned that his sewer lateral would be able to be connected to a new sewer main. Darland said she had been assured by the project engineer that during phase two of the construction the lateral would be connected to the main at Upland's expense.

Volan asked about the value of the land being vacated. He asked if the city should be compensated for the fair market value of the land, even though it is oddly shaped.

Vickie Renfrow, Assistant City Attorney said that there was no case that she could find in Indiana where a city had been compensated for vacating a right-of-way. She said that the law in this area did not say anything about the criteria or form of benefit that the city could expect upon vacation. She said that she could find no reason that under Indiana law, on a case by case basis, we couldn't have a policy that would contemplate requiring compensation. She noted that in this case not all the land was going to be received by Upland, and that receivers would have to be considered, also. She stated that value of land is a function of a willing buyer and a square foot value could be calculated from assessment records, but the reality of the situation would also have to be considered.

Volan used the example of a business owner approaching the city for a vacation of right-of-way with the statement that they needed the land to make their business profitable. He asked if the city was setting a precedent in giving up such a lot of land.

Renfrow said no. She said that the judgment of the council as a legislative body would be given deference as the pros and cons of each case was weighed, each case being looked at separately and that one decision would not bind the council to a previous decision. She gave an example of a case in Seattle where the law allowed compensation but that the City Council did not require it in a vacation to another municipal authority. She said that it would require some study, but that even if there was no charge for vacation now, it did not mean that it couldn't be required in another case.

Volan reiterated that granting the vacation at this meeting was not setting precedent and that it would not preclude the council from creating a compensation ordinance and asking for compensation at a later date. Renfrow agreed.

Sturbaum noted that if there was public harm, the council would not vacate the land, and asked about the order in which this project was progressing. He said that the Plan Commission and BZA hearings had not yet happened and asked Tom Micuda, Planning Director, if this was being done in the right order.

Micuda said he understood the question to be about a commitment on the part of Upland to develop the property as was stated at this meeting. He said it was not a commitment unless it was made a condition of the vacation of right-of-way. He said the petitioner was showing intent in

this case. He said that it was more usual to have the vacation legislation come after the plan review process. He said that the Planning Department stance was that there was not a public use for this land in its existing form or proposed form that would cause concern for vacation. He added that it was up to the council to delve more deeply into the issues or attach conditions to this vacation. He also said that the plan review process was rigorous and that there was a council representative on the Plan Commission, and that the council might have faith that a good product would come out of the vacation.

Micuda said that the petitioner had given reasons why he wanted to deal with the right-of-way issue before the design issue and said the council may want that on the record.

Ruff asked the petitioner to step to the podium and state his intentions.

Doug Dayhoff said that what was presented so far was, indeed, the intention in development of his business. He said that he wouldn't do anything with the site that would not enhance the public's view of his business. He said that a large corporation would have no trouble funding the site engineers, architects and other professionals required to support a project coming before the Plan Commission, but as a small business, a \$50,000 expense would be difficult to manage when those funds should be used to build his business. He said that an insistence on the other sequence of events would put money into the administrative activities and process instead of allowing him to build the business so that it would need the expansion.

Dayhoff showed sketches of his plans and said he wanted to build a larger wholesale brewery business not a larger restaurant. He added that without a vacation of N. Madison this could not be done because relocation of the sanitary and storm sewer needed to be located to the west, and that they would be building over that area. Dayhoff spoke of the nature of his business as well as his personal philosophy of business.

Sturbaum said he was satisfied with the answers and said he understood that the design shown at this meeting was not a commitment.

Piedmont-Smith asked if the reason Dayhoff had not created a site plan before asking for the right-of-way vacation was to make sure that he had the ability to build in the area before investing in the engineering and site plans. Dayhoff said that it was one of the issues.

Satterfield asked staff if there had been problems with vacations in the past. Micuda said he would need to do further research, but that the right-of-way vacation for the Hotel Indigo was tied to that particular development and it hadn't been developed yet.

Volan asked if there was a precedent for a claw-back provision for a project like the Hotel Indigo. Micuda said that the question was investigated internally and said that a reversion clause would not be the best way to proceed legally. It would be better to delay an effective date of the vacation.

Volan said in some cases the petitioner could simply want to consolidate the value of the land for future sale, and wondered what would happen in that case.

Micuda said he was not arguing against the merits of getting the land back, but reiterated that the reversion was not the best legal way to proceed.

Ordinance 09-17 (cont'd)

Renfrow said that reversions are not advisable in real estate laws. She said that having a reversion in granting right-of ways was not permitted in Indiana. She said a better way would be to use a Memorandum of Understanding or make the vacation delayed or contingent on something happening. She said that to become effective then, a particular action would need to take place.

Volan asked if there were conditions for this proposal.

Renfrow said that the only condition in this instance was a 'grant back' of the blanket easement for Vectren Gas and the city's use. She said that document was ready to be recorded after the 30 day appeal period.

Volan asked if the city could get the land back if the petitioner didn't do what they said they were going to do.

Dan Sherman, Council Attorney/Administrator said that the Hotel Indigo right-of-way ordinance delayed the effective date of the ordinance until the Planning Department provided the City Clerk with a Certificate of Zoning Compliance for the project, and the City Clerk filed that ordinance and the certificate with the County Auditor and County Recorder Offices.

Satterfield asked what could be done in the future to deal with Volan's concerns. Micuda said that the Legal and Planning Departments were present to provide recommendations to the council. He said that these recommendations would reflect the individuality of each case. Satterfield explored the scenario in which a developer would ask for vacation of city property in order to add to his land holding to increase the value of the land. Micuda said that the issuance of a Certificate of Zoning Compliance indicated that the developer brought forward plans for development which was different from the scenario of land assembly. He said that a Certificate of Occupancy would indicate a building was ready for use.

The only public comment on this item came from Larry Jacobs, government relations manager for the Chamber of Commerce. He said that Upland epitomized both local business and the spirit of Bloomington, and it was evident from their presentation that Upland was committed to the community. He also said that he didn't believe the property in this case had public use and advocated for it to be vacated. He acknowledged Volan's concern saying it could be an issue in other cases, but he didn't believe it was a concern in this case.

Wisler said that the greatest public good should be examined rather than just any public good coming from a vacation of right-of-way. He asked if there was a greater good in the city holding the land or someone in the private sector holding the land. He said if there was a city plan for the land, this discussion would be quite different. He said the public good in having Upland Brewery hold this land would be significantly served by allowing them to set a tone for the Certified Tech Park, to build a development that would allow them to create jobs, create a walkable area, expand the downtown, and promote the right type of economic development. Wisler noted that there were ways of determining fair market value of land, but was cautious of selling public lands adding that perhaps a municipality might want to sell its streets. He noted that we were looking for the most public good rather than the greatest financial gain to the city. He noted his support for the vacation.

Satterfield said he fully supported the vacation and thanked the staff for reexamining the notification process. He said that even though the law was followed, it did not allow a practical time frame for all parties and

appreciated the change in policy. He said that Volan's concerns of someone getting an undue profit from a city vacation of right-of-way should be examined in the future.

Sturbaum said Wisler's story about a city selling streets, while sounding implausible, was actually similar to Indiana's governor selling the toll road in the northern part of the state.

Sturbaum said that he had discussed granting the vacation with added conditions with the council attorney and the developer, and decided that it would cause potential problems for the development. He said the phasing of the project would add complications, too. He noted that with a different petitioner the council might want different assurances. He said that this was actually a "faith based" vacation and he was in support of the vacation.

Volan noted that "trust, but verify" was a model to consider in these deliberations. He noted that the number one issue of importance in his district was parking and asked what would happen to the current on-street (Madison) parking in the area. He noted that this was a public use of land, and a public amenity. He said that his question of a reversion of land to the city in the case of the development not being built was a legitimate one and part of the responsibility of his role as council member.

Piedmont-Smith said she appreciated the staff's action on a new notification process for the vacation procedure as it would increase communication. She said she was also pleased that neighbor's concerns about being able to use the alley for access to their property and utility lines had been addressed and resolved. She said that in the question of vacations of rights-of-way in general, the council, legal department and planning department should investigate the concept and particulars of asking for compensation. She said a working group or on going discussions should take place on the concept of reversions, also. She said that in this case she was confident that the planning process and review at the Plan Commission would adequately vet the petitioner's proposal. She said she supported the petition to vacate the right-of-way.

Sandberg said she was pleased to support this vacation, also. She said Dayhoff would be enhancing the area and the Certified Tech Park where further development was desired. She said that this was the public benefit in this vacation.

Mayer said that vacations of this type in the downtown had not been unheard of in the past, and noted that the Fountain Square Mall had several alleys vacated in the 80's and noted the west side of the square alley had been vacated for pedestrian use, the Mercury, Hilton Gardens and Princess theater developments all had alley vacations.

Mayer said that the brewery employed more people than the printing plant that was in the building and that was a justification for approving this proposal. He said the brewery use fit with the vision of the neighborhood, and added that the business's commitment to sustainability and green business practices was of benefit. He supported the vacation.

Volan said that Piedmont-Smith crystallized his position on the revision and compensation issues surrounding vacations of rights-of-way. He said he was happy to hear that this would be an ongoing discussion and agreed that it should not be considered in this particular vacation issue. He said he supported the vacation on the assumption that Phase 2 will be built. Lastly he said his concern was what the city could do to insure that what a developer presents, the reason the right-of-way vacation is

granted, will actually happen. He said he appreciated Renfrow’s comments on this matter and apologized for what may have been sharp comments or questioning on his part.

Ordinance 09-17 (cont’d)

Wisler pointed out the difference between the sale and lease of public roads in defense of his earlier statement and the toll road long term lease.

Sturbaum requested that the Planning Department bring this type of legislative action to the council later in the process. He said he would rather see a proposal after it had been through the planning and BZA hearings.

Ruff said that he totally disagreed with the notion that there was no public or future public value on the property to be vacated. He said that a value of a parking space had been determined, but felt that this was a higher best use of the property. He said it was a good local business and there would be public benefits to the development. He added that we should make sure that a project is built out before the city gives up a public right-of-way. He added that in the future he would be reluctant to support any significant vacations of rights-of-way without some way to deal with not having the vacation proceed if the project does not go through, regardless of the intention of the developer. He said that the vacation adds value to the property and it shouldn’t just stand empty and not be developed.

Ordinance 09-17 received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded that the following legislation be introduced and read by title and synopsis only. Clerk Moore read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING

Ordinance 09-18 To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” – Re: Responsible Bidding Practices and Requirements to Perform Construction Work on City of Bloomington Projects

Ordinance 09-18

Ordinance 09-19 To Amend Title 7 of the Bloomington Municipal Code Entitled “Animals” – Re: Numerous Changes Resulting from a Periodic Review of Title 7 and Also Responding to HEA 1468 which Regulates “Puppy Mills”

Ordinance 09-19

There was no public comment at this portion of the meeting.

PUBLIC INPUT

The meeting was adjourned at 9:57 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Andy Ruff, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall on Wednesday, January 6, 2010 at 7:30 pm with Council President Andy Ruff presiding over the Organizational Session of the Common Council.

COMMON COUNCIL
ORGANIZATIONAL SESSION
January 6, 2010

Roll Call: Piedmont-Smith, Rollo, Ruff, Sandberg, Satterfield, Sturbaum, Volan, Wisler
Absent: Mayer

ROLL CALL

Council President Ruff gave the Agenda Summation

AGENDA SUMMATION

Minutes of the Regular Session meetings of November 16, 2009 and December 18, 2009 were approved by a voice vote after minor corrections to Councilmember Satterfield's council comments made at the 12-18-09 meeting.

APPROVAL OF MINUTES

Chris Sturbaum said he had no real report to give but said he was ready for a good year.

REPORTS:
COUNCILMEMBERS

President Ruff gave a statement about the council's work in 2009. Ruff, chairing the council for the last time, said it was an honor and privilege to serve as president in 2009. He thanked his colleagues for giving him the opportunity to serve, adding that he appreciated their confidence in him and their cooperation and support. He also thanked the mayor, City staff, council staff, the City Clerk and her office. He commended the citizens of the community for their civic participation, guidance and input along with the infusion of their tax dollars. He said they made the community work and made it that place we call home. He said Bloomington was a wonderful place because of the committed, passionate and dedicated citizens.

Ruff reviewed the council actions in 2009, saying that the City was able to add to its assets by purchasing the CSX Switchyard, the Sportsplex facility and by opening the B-Line trail. He said that the council worked on legislation that reviewed the Unified Development Ordinance, reviewed and accepted the Peak Oil Task Force Report, established a Commission on Aging, a Green Building Program, and a Responsible Bidders' Ordinance. He said all these things were done to move the community towards greater sustainability. He added that 2009 was a better year for Bloomington than many communities due to good fortune and good governance. He explained that to him, good governance was not exclusive to the elected leadership, but just a formalized process by which the community moved its priorities, values and goals forward and into action. He added that 2010 would bring challenges and progress, with major debates on issues such as a proposed expansion of a water utility, and a community debate about the moving of the hospital away from the downtown. He said he was confident the next council president would do an excellent job in moving the community forward.

Valeri Haughton, Chair of the Human Rights Commission, awarded the 2009 Human Rights Commission Award to New Leaf/New Life. Reverend Hal Taylor accepted the award for the group, acknowledged the board, employees, and volunteers of the program whose aim is to make changes in the way the justice system works with the jail population. Taylor, in his remarks, invited the community to join them in changing the system from a punitive one to a restorative one that respects the human rights of all.

MAYOR and CITY OFFICES

There were no council committee reports at this meeting.

COUNCIL COMMITTEES

George Brooks spoke about sole proprietorship zones and their benefit to workers. He spoke about large corporations being sought after by communities because they bring the largest number of jobs. He claimed that employees of small businesses, mom and pop stores and sole proprietorships have more creativity, problem solving and thinking involved in their work, and advocated for them.

PUBLIC INPUT

John Keyes spoke of the upcoming census, saying that he was involved in the Bloomington area and was recruiting 954 census workers for Monroe County to work six weeks in April. He described the census work, highlighted its importance and asked the council to amplify his request for workers.

Marc Haggerty, a member of New Leaf, New Life, told the council that the program had been fostered by Roberta McCloskey before her death. He said she was passionate about human rights and that this would come to no surprise to council members. He asked that they, too, help with a reformative system of justice rather than a punitive one.

Buff Brown noted that he was from the First Presbyterian Church's group Earth Stewards which had joined with other faith groups to found an interfaith group called Earth Care. He talked of four weekends during the year 2010 that would increase awareness of the care needed for our planet. He gave dates and asked that the council help by providing bus service on Sundays to promote less use of cars.

It was moved and seconded that following slate of officers be elected:

ELECTION OF OFFICERS

- President: Isabel Piedmont-Smith
- Vice President: Andy Ruff
- Parliamentarian: Mike Satterfield

This slate was approved by a voice vote. Council Members changed seats in accordance with their new positions as assigned by the new president. New Council President Piedmont-Smith thanked outgoing president Ruff for his service, and presented him with an engraved gavel to commemorate his term as president. She presided for the rest of the meeting.

It was moved and seconded that the following appointments to various council positions be considered:

BOARD AND COMMISSION APPOINTMENTS

- Citizens Advisory Committee (Community Development Block Grants)
 - Social Services Susan Sandberg
 - Physical Improvements Timothy Mayer
- Commission for Bloomington Downtown Chris Sturbaum
- Economic Development Commission (City) Mike Satterfield
- Economic Development Commission (County) Regina Moore
- Environmental Resource Advisory Committee Dave Rollo
- Metropolitan Planning Organization Andy Ruff
- Plan Commission Chris Sturbaum
- Solid Waste Management District Stephen Volan
- Urban Enterprise Association Board Chris Sturbaum
- Utilities Services Board Timothy Mayer
- Bloomington Economic Development Corporation Susan Sandberg
- Bloomington Commission on Sustainability Dave Rollo

The nominations were approved by a voice vote.

Appointments (cont'd)

President Piedmont-Smith appointed the following council members to the Jack Hopkins Social Services Funding Committee:

Mayer, Piedmont-Smith, Ruff, Sandberg and Satterfield

President Piedmont-Smith appointed the following council members to the Council Sidewalk Committee:

Rollo, Sturbaum and Satterfield, Volan

President Piedmont-Smith appointed council members to Board and Commission Interview Committees as they served in the past year adding one for the Historic Preservation Commission (Sturbaum, Volan, Satterfield) and one for the new Commission on Aging (Satterfield, Sandberg, Mayer).

It was moved and seconded that the council affirm the mayor's reappointment of Chris Sturbaum to the Historic Preservation Commission. The affirmation was approved by a voice vote.

This being the first meeting of the year, there was no legislation for consideration for final action.

LEGISLATION FOR SECOND READING

It was moved and seconded that the following legislation be introduced and read by title and synopsis only. Clerk Moore read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING

Ordinance 10-01 To Amend the Bloomington Zoning Maps from Commercial General (CG), Industrial General (IG) and Planned Unit Development (PUD) to a Planned Unit Development (PUD) and Adopt the District Ordinance and Preliminary Plan for the 18.32 Acre Patterson Pointe PUD – Re: 420 S. Patterson Drive (Patterson Pointe LLC, Petitioner)

Ordinance 10-01

Ordinance 10-02 An Ordinance of the Common Council of the City of Bloomington, Indiana, Approving the Issuance and Sale of Special Taxing District Refunding Bonds by the City For and On Behalf of the Bloomington Park and Recreation District to Provide a Savings to the Park District

Ordinance 10-02

Ordinance 10-03 An Ordinance Concerning the Current Refunding by the City of Bloomington, Indiana, of Its Sewage Works Revenue Bonds of 1999, Series A; Authorizing the Issuance of Sewage Works Refunding Revenue Bonds for Such Purpose; Providing for the Collection, Segregation and Distribution of the Revenues of the Sewage Works and the Safeguarding of the Interests of the Owners of Said Sewage Works Refunding Revenue Bonds; Other Matters Connected Therewith; and Repealing Ordinances Inconsistent Herewith

Ordinance 10-03

Clerk Moore noted that the mayor and council were accepting applications for the newest City Commission on Aging. She noted application forms could be found on the City's website and also could be submitted in person.

PUBLIC INPUT

Michelle Cole said she was disappointed in the council's selection and appointments earlier in the meeting. She noted that Brad Wisler had not been appointed to a commission or a council committee. She added that more voices and different voices made for a better process.

The meeting was adjourned at 8:32 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Isabel Piedmont-Smith, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington