

ORDINANCE NO. BG2019 - 22

ORDINANCE PROVIDING FOR ISSUANCE OF WATER AND SEWER REVENUE BONDS

ORDINANCE OF THE CITY OF BOWLING GREEN, KENTUCKY, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF CITY OF BOWLING GREEN, KENTUCKY WATER AND SEWER REVENUE BONDS, SERIES 2019 FOR THE PURPOSE OF FINANCING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, EXPANSIONS AND IMPROVEMENTS TO ITS WATER TREATMENT PLANT AND THE CONSTRUCTION AND INSTALLATION OF A SEWER FORCE MAIN FROM THE SOUTHERN END OF THE SEWER SYSTEM TO THE PRESTON AVENUE WASTEWATER TREATMENT PLANT

WHEREAS, the existing water and sewer systems of the City of Bowling Green, Kentucky (the "City") have heretofore been combined and consolidated into a single, combined and consolidated, revenue-producing public project or system (the "System"); and,

WHEREAS, it is deemed necessary and advisable for the best interests of the City that its City Commission authorize the issuance and sale of its City of Bowling Green, Kentucky Water and Sewer Revenue Bonds, Series 2019, dated the date of issuance (the "Series 2019 Bonds") in a principal amount not to exceed \$65,000,000, for the purpose of providing funds to finance the acquisition and construction of additions, expansions and improvements to its water treatment plant and the construction and installation of a sewer force main from the southern end of the sewer system to the Preston Avenue wastewater treatment plant (collectively the "Project"); and,

WHEREAS, under the provisions of Sections 58.010 through 58.140, inclusive, of the Kentucky Revised Statutes, the City is authorized to issue the Series 2019 Bonds to provide such funds for the purpose aforesaid.

BE IT ORDAINED BY THE CITY OF BOWLING GREEN, KENTUCKY, AS FOLLOWS:

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Section 1. Definitions and Recitals. (a) *Definitions.* As used in this Ordinance, unless the context requires otherwise:

"Act" refers collectively to Chapters 58, 82 and 96 of the Kentucky Revised Statutes.

"Board", "BGMU" or "Bowling Green Municipal Utilities Board" refers to the Bowling Green Municipal Utilities Board of Directors created by ordinance enacted by the City of Bowling Green, Kentucky vesting the management, control and operation of the municipal water and sewer system in such Board.

"Board Chief Financial Officer" refers to the Chief Financial Officer of the Board.

"Bondholder", "Bondowner", "Holder" or "Owner" means and contemplates unless the context otherwise indicates, the registered owner(s) of the Bonds at the time issued and outstanding hereunder, or any of them.

"Bond Counsel" refers to a nationally recognized firm of Bond Counsel including the firm of Rubin & Hays, Louisville, Kentucky, which firm has prepared the legal proceedings for the issuance of the Bonds, has furnished all of the customary services of Bond Counsel in this financing and will continue to furnish such services until the Bonds are delivered and paid for, including the rendering of the final approving legal opinion with regard to the legality of the Bonds and the tax exemption of the interest thereon.

"Bond Insurance Policy" refers to an insurance policy issued by the Bond Insurer, guaranteeing the scheduled payment of principal of and interest on the Bonds when due.

"Bond Insurer" refers to any corporation, association or other entity which is engaged in the business, among other things, of insuring or guaranteeing the payment of the principal of and interest on municipal bond issues.

"Bond Ordinance" or "Ordinance" refers to this Ordinance authorizing the Current Bonds.

"Bond Register" means the books and records maintained by the Bond Registrar as to the registered ownership and transfers of ownership of the Current Bonds from time to time.

"Bond Registrar", "Registrar" or "Paying Agent" refers to the U.S. Bank National Association, Louisville, Kentucky, which shall constitute the Bond Registrar and Paying Agent with respect to the Current Bonds, who shall have the duties and responsibilities set forth in the Paying Agency Agreement. Provided, however, it is understood that the City reserves the right to designate a different institution to perform any and all of such functions of Bond Registrar and Paying Agent as to the Current Bonds.

"Bonds" refers to the Current Bonds, the Prior Bonds and any additional Parity Bonds.

"Certified Public Accountants" refers to an independent Certified Public Accountant or firm of Certified Public Accountants, duly licensed in Kentucky, and may include accountants regularly employed to audit the financial affairs of the System and/or of other financial matters of the City.

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"City" refers to the City of Bowling Green, Kentucky.

"City Clerk" refers to the City Clerk of the City.

"City Chief Finance Officer" refers to the Chief Financial Officer of the City.

"City Manager" refers to the City Manager of the City.

"Code" or *"Internal Revenue Code"* refers to the United States Internal Revenue Code of 1986, as amended.

"Current Bonds" refers to the Series 2019 Bonds.

"Date of Issuance" refers to the date the Current Bonds are issued and delivered to the Purchasers.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book entry system to record ownership of book entry interests in the Bonds, and to effect transfers of book entry interests in the Bonds in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Depository Bank" refers to the bank and/or banks in which the Funds referred to in this Ordinance will be deposited and maintained, unless and until the Board designates in accordance with this Ordinance a different FDIC instrumentality or instrumentalities as the depository or depositories for such Funds; and shall at the date of this Ordinance refer to (i) U.S. Bank National Association, with respect to the Operation and Maintenance Fund, the Project Fund and the Sinking Fund; (ii) the Paying Agent as to the Payment Account and the Reserve Fund; and (iii) Branch Banking & Trust Company, with respect to the Depreciation Fund.

"Depreciation Fund" refers to the Bowling Green Municipal Utilities Water and Sewer Depreciation Fund described in Section 13 of this Ordinance.

"Engineer or Independent Engineer" refers to an independent consulting engineer or firm of engineers of excellent national reputation or of recognized excellent reputation in Kentucky in the fields of water and sewer system engineering.

"Financial Advisor" refers to J.J.B. Hilliard, W.L. Lyons, LLC, a Baird company.

"Funds" refers collectively to the Sinking Fund, the Revenue Fund, the Operation and Maintenance Fund, the Depreciation Fund, the Reserve Fund and the Payment Account.

"Generally Accepted Accounting Principles" or *"GAAP"* means those principles of accounting set forth in statements of the Financial Accounting Standards Board or which have other substantial authoritative support and are applicable in the circumstances as of the date of a report, as such principles are from time to time supplemented and amended.

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"General Manager" refers to the General Manager of BGMU.

"Governing Body" refers to the Board of Commissioners of the City of Bowling Green, Kentucky, or such other body as shall be the governing body of the City under the laws of Kentucky at any given time.

"Gross Revenues" refers to and shall include (i) all revenues, rates, fees, rents, charges, receipts and any other amounts received by BGMU or the City pursuant or with respect to the operation of the System; (ii) all connection or disconnection fees; (iii) the proceeds of the sale of any System assets or attributes and (iv) all interest, profits or other income derived from the investment of amounts in any of the Funds or System accounts, including the Funds or System accounts established pursuant to this Bond Ordinance (except the Excess Earnings and Rebate Fund); provided however, Gross Revenues shall not include any customer deposits, except to the extent the same would constitute revenues or income in accordance with GAAP; provided (1) all "investment income" shall be adjusted in any such calculation or projection to reflect the market rate currently available from such investments, and (2) there shall be excluded any unusual items of income and revenues which are of a generally non-recurring nature, according to the certification of Independent Engineers and/or Certified Public Accountants.

"Interest Payment Date" shall mean June 1 and December 1 of each year commencing December 1, 2019.

"Investments" refers to:

(a) Obligations of the United States and of its agencies and instrumentalities, including obligations subject to repurchase agreements, if delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian;

(b) Obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

- (i) Federal Home Loan Banks;
- (ii) Government National Mortgage Association;
- (iii) Federal Home Loan Mortgage Corporation;
- (ii) Federal Farm Credit System;
- (iii) Federal Housing Administration; and
- (vii) Federal National Mortgage Association;

(c) Certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation or similar entity or which are collateralized, to the extent uninsured, by any obligations, including surety bonds, permitted by KRS 41.240(4);

(d) Uncollateralized certificates of deposit issued by any bank or savings and loan institution rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

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(e) Bankers' acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(f) Commercial paper rated in the highest category by a nationally recognized rating agency;

(g) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(h) Securities issued by a state or local government, or any instrumentality of agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(i) Shares of mutual funds, each of which shall have the following characteristics:

(i) The mutual fund shall be an open-end diversified investment company registered under the Federal Investment Company Act of 1940, as amended;

(ii) The management company of the investment company shall have been in operation for at least five (5) years; and

(iii) All of the securities in the mutual fund shall be eligible investments pursuant to this definition; and

(j) Any other lawful investment authorized by Kentucky statute or law for Kentucky cities.

"Mayor" refers to the Mayor of the City of Bowling Green, Kentucky.

"Maximum Annual Debt Service" refers to the maximum amount falling due in any fiscal year for payment of interest on and principal of the Bonds, including both principal falling due and principal due by reason of call for mandatory redemption.

"Net Income Available for Debt Service" refers to and means Gross Revenues less Operating Expenses, other than (i) depreciation, (ii) amortization and (iii) interest on the Bonds and any subordinated indebtedness; provided that no determination thereof shall take into account: (a) insurance proceeds payable as a result of casualty or other similar circumstances (other than the proceeds of business interruption insurance); (b) gains and losses from the sale of capital assets and from other extraordinary items; and (c) gains and losses attributable to refundings and other early extinguishment of indebtedness.

"Operating Expenses" refers expenses related to the operations, management and maintenance of the System, properly charged as an operating expense in accordance with GAAP, including but not limited to salaries; wages; costs of maintenance, materials and supplies; insurance; maintenance expenditures; tax equivalent payments; transmission costs; fees and costs of paying agents, attorneys, consultants and others; costs associated with studies and reports; and permit fees all of which relate to the System but shall exclude any unusual items of operation and maintenance expense which are of a

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generally non-recurring nature, according to the certification of Independent Engineers and/or Certified Public Accountants.

"Operation and Maintenance Fund" refers to the Bowling Green Municipal Utilities Water and Sewer Operation and Maintenance Fund described in Section 13 of this Ordinance.

"Original Purchasers" or *"Purchasers"* refers to the Original Purchasers of the Current Bonds at the public sale, including all members of the purchasing syndicate or group.

"Outstanding" when used with reference to any Bonds, means, as of any date, all Bonds theretofore issued by the City and secured by the Gross Revenues of the System, except:

- (a) any Bonds cancelled by the Bond Registrar at or prior to such date;
- (b) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered; or
- (c) Bonds deemed to have been paid as provided in Section 10.3 of this Bond Ordinance.

"Parity Bonds" means bonds issued in the future, which bonds will, pursuant to the provisions of this Ordinance, rank on a basis of parity with the Bonds, and shall not be deemed to include, nor to prohibit the issuance of, bonds ranking inferior in security to the Bonds.

"Participants" means those broker-dealers, banks and other financial institutions from time to time for which the Depository holds Bonds as securities depository and for whom the Depository effects book-entry transfers and pledges of securities deposited with the Depository.

"Payment Account" refers to the City of Bowling Green, Kentucky Water and Sewer Bond Payment Account described in Section 18 of this Ordinance.

"Prior Bonds" refers to the outstanding Series 2011 Bonds, Series 2012 Bonds and the Series 2013 Bonds.

"Prior Ordinance" refers to the Series 2011/2012 Ordinance and the Series 2013 Ordinance.

"Project" refers to the acquisition and construction of additions, expansions and improvements to its water treatment plant and the construction and installation of a sewer force main from the southern end of the sewer system to the Preston Avenue wastewater treatment plant.

"Project Fund" refers to the Bowling Green Municipal Utilities Water and Sewer Project Fund described in Section 13 of this Ordinance.

"Regular Record Date" shall mean with respect to any Interest Payment Date, the close of business on May 15 or November 15, as the case may be, next preceding such Interest Payment Date, whether or not such May 15 or November 15 is a business day.

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"Required Depreciation Balance" refers to the balance required to be kept on deposit in the Depreciation Fund as provided in Section 18 hereof.

"Required Reserve" refers to (a) an amount, as of any particular date of computation, equal to the lesser of (i) 10% of the proceeds of the Bonds, (ii) 100% of the greatest amount required in the then current or any future bond year to pay the principal and interest requirements on the Outstanding Bonds or (iii) 125% of the average of the annual principal and interest requirements of the Outstanding Bonds, or (b) a Reserve Fund Insurance Policy.

"Reserve Fund" refers to the Bowling Green Municipal Utilities Water and Sewer Reserve Fund described in Section 13 of this Ordinance.

"Reserve Fund Insurance Policy" refers to an insurance policy guaranteeing the payment of whatever reserve account or commitment related thereto is described in such insurance policy.

"Reserve Fund Insurance Policy Provider" refers to any corporation, association or other entity which is engaged in the business, among other things, of providing surety on certain funds created or required to be maintained hereunder.

"Revenue Fund" refers to the Bowling Green Municipal Utilities Water and Sewer Revenue Fund described in Section 13 of this Ordinance.

"Rule" refers to Rule 15c2-12 promulgated by the Securities and Exchange Commission.

"Sale Certificate" refers to the Certificate Awarding the Bid on the Bonds executed by (i) the City Manager or the City Chief Financial Officer and (ii) the General Manager or the Board Chief Financial Officer accepting the successful bid for the Current Bonds and setting the principal amount, maturities, mandatory redemption schedule and interest rates for the Current Bonds.

"Series 2011/2012 Ordinance" refers to the Ordinance of the City enacted on December 6, 2011, authorizing the issuance of the Series 2011 Bonds and the Series 2012 Bonds.

"Series 2013 Ordinance" refers to the Ordinance of the City enacted on December 3, 2013, authorizing the issuance of Series 2013 Bonds.

"Series 2011 Bonds" refers to City of Bowling Green, Kentucky Water and Sewer Revenue Bonds, Series 2011, dated December 22, 2011, authorized by the Series 2011/2012 Ordinance.

"Series 2012 Bonds" refers to City of Bowling Green, Kentucky Water and Sewer Revenue Bonds, Series 2012, dated January 10, 2012, authorized by the Series 2011/2012 Ordinance.

"Series 2013 Bonds" refers to City of Bowling Green, Kentucky Water and Sewer Refunding Revenue Bonds, Series 2013, dated December 19, 2013, authorized by the Series 2013 Ordinance.

"Series 2019 Bonds" refers to City of Bowling Green, Kentucky Water and Sewer Revenue Bonds, Series 2019, dated the Date of Issuance, authorized by this Bond Ordinance.

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"Sinking Fund" refers to the Bowling Green Municipal Utilities Water and Sewer Sinking Fund described in Section 13 of this Ordinance.

"System", "Combined Utility System", or "Combined System" refers to the combined and consolidated water and sewer system of the City.

"Term Bonds" refers to any Current Bonds which are required to be mandatorily redeemed in accordance with the schedule set out in the Sale Certificate approving the sale of the Current Bonds.

"U.S. Obligations" refers to obligations of the United States and of its agencies and instrumentalities, including obligations subject to repurchase agreements, if delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian.

(b) *Recitals.* The factual background incident to the enactment of this Ordinance consists of the following recitals (the "Recitals"):

- (i) BGMU, on behalf of the City, owns the existing Combined Utility System serving the City and its environs in Warren County, Kentucky.
- (ii) BGMU and the City has determined that it is desirable and in the public interest to acquire, construct and install the Project and to finance the Project with the proceeds of and through the issuance of the Current Bonds.
- (iii) BGMU and the City have been advised by the Financial Advisor and Bond Counsel that the financing of the Project, may be accomplished at this time by the issuance of the Current Bonds.
- (iv) BGMU and the City has found and determined that the Project is authorized by the Act.

Section 2. Authorization of Bonds. For the purpose of accomplishing financing the Project, there is hereby authorized to be presently issued and sold the City of Bowling Green, Kentucky Water and Sewer Revenue Bonds, Series 2019, dated the Date of Issuance, in a principal amount not to exceed \$65,000,000, which amount will be set and fixed as provided in Section 12 hereof. The Current Bonds shall mature on June 1 of the respective years, and shall bear interest payable semiannually on the first days of June and December of each year, beginning on December 1, 2019, at an interest rate or rates as set forth and fixed by the Sale Certificate as a result of the advertised sale of the Current Bonds.

Section 3. Bonds to be Issued as Fully Registered Bonds; Registered Owners. The Current Bonds shall be issued only in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof within a single maturity. The Current Bonds shall be numbered consecutively from R-1 upward. Each initially issued Current Bond and each Current Bond issued prior to the first Interest Payment Date on the Current Bonds shall be dated as of and shall bear interest from the date of issuance. Each Current Bond issued (as a result of exchange or transfer) after such first Interest Payment Date on the Current Bonds shall be dated as of and shall bear interest from the Interest Payment Date next preceding the date on which such Current Bond is issued, unless such

Current Bond is issued on an Interest Payment Date, in which case it shall be dated as of and shall bear interest from such date of issue; provided, however, that if at the time of issuance of any Current Bonds the interest thereon is in default, such Current Bond shall be dated as of the date to which interest has been paid in full.

The person in whose name any Current Bond is registered on the Bond Register maintained by the Bond Registrar, on the Regular Record Date with respect to an Interest Payment Date, shall be entitled to receive the interest payable on such Interest Payment Date (unless such Current Bond shall have been called for redemption on a redemption date which is prior to such Interest Payment Date) notwithstanding the cancellation of such Current Bond upon any registration of transfer or exchange thereof subsequent to such Regular Record Date and prior to such Interest Payment Date, except in the event of default.

Section 4. Place of Payment and Manner of Execution. The principal of (and premium, if any) and interest on the Current Bonds shall be payable in lawful money of the United States of America as they respectively become due, whether at maturity or by prior redemption. Principal of each Current Bond is payable upon surrender of same at the main office of the Paying Agent and Bond Registrar. Interest on the Current Bonds shall be paid by the Paying Agent on or before each Interest Payment Date to the persons entitled thereto as of the end of business on the Regular Record Date preceding each applicable Interest Payment Date, at the respective addresses appearing on the Bond Register.

So long as any Current Bonds remain outstanding, the Registrar shall maintain at its principal office the Bond Register showing and recording a register of all the owners of the Current Bonds and an accurate record of all registrations, transfers, and exchanges relating to the Current Bonds, and shall provide for the registration and transfer of Current Bonds in accordance with the terms of this Ordinance, subject to such reasonable regulations as the Registrar may prescribe.

Subject to the provisions of this Section, (i) the principal of and any premium on any Current Bond shall be payable when due (a) on any Current Bond held in a book entry system, registered in the name of a Depository or its nominee, in next day or federal funds by check or wire transfer delivered or transmitted to the Depository or its authorized representative upon presentation and surrender of such Current Bond at the principal office of the Paying Agent or at the office, designated by the Paying Agent, of any Paying Agent, and (b) on any Current Bond not in a book entry system, to a Holder upon presentation and surrender of such Current Bond at the principal office of the Paying Agent or at the office designated by the Paying Agent, and (ii) interest on any Current Bond shall be paid on each Interest Payment Date (a) on any Current Bond held in a book entry system, registered in the name of a Depository or its nominee, in next day or federal funds by check or wire transfer delivered or transmitted to the Depository or its authorized representative and (b) on any Current Bond not in a book entry system, to the Person in whose name the Current Bond is registered at the close of business on the Record Date applicable to that Interest Payment Date on the Register at the address appearing therein by check or draft which the Paying Agent shall cause to be mailed on the Interest Payment Date such interest is due.

Anything herein to the contrary notwithstanding, in the case of any Current Bonds registered in the name of the Depository or its nominee, the Paying Agent shall comply with the requirements stated in the Depository Operational Arrangements memorandum dated June 29, 1987 (as it may be amended,

modified or superseded) and with the provisions of the Letter of Representations from each of them to the Depository executed and delivered with respect to the Current Bonds. Specifically, the Paying Agent shall make payments on the Current Bonds and will provide notices of redemption to the Depository in the manner and at the times set forth in such memorandum and shall regard the Depository as the Holder of such Current Bonds for all purposes hereunder, except for the purpose of giving any consent requested of Holders of Current Bonds pursuant to this Ordinance, in which case the Depository will mail an Omnibus Proxy to the City which assigns the Depository's or its nominee's voting rights to the participants in the Depository having the Current Bonds credited to their accounts as of the record date for mailing of requests for consents (who are identified in a list attached to the Omnibus Proxy). The City agrees hereby to promptly provide the Omnibus Proxy to the Paying Agent, which shall then treat the Participants as Holders of Current Bonds for purposes of obtaining such consents.

The Current Bonds shall be executed on behalf of the City with the duly authorized reproduced facsimile signature of the Mayor, and the reproduced facsimile of the City's corporate seal shall be imprinted thereon and attested by the reproduced facsimile signature of the City Clerk; and said officials, by the execution of appropriate certifications, shall adopt as and for their own proper signatures, their respective facsimile signatures on said Current Bonds; provided the Authentication Certificate of Registrar must be executed by the manual signature of the Registrar on each Current Bond before such Current Bond shall be valid, as set out in Section 8 below.

Arrangements shall be made for the printing of sufficient bond certificates to enable the Registrar to maintain an adequate reserve supply of such bond certificates as same are sold, exchanged, and/or otherwise surrendered in the future. Notwithstanding anything contained herein, the Bond Registrar shall have the right to order the preparation of whatever number of printed bond certificates as, in the sole discretion of the Bond Registrar, shall be deemed necessary in order to enable the Bond Registrar to maintain an adequate reserve supply of such bond certificates to effect properly the continuing transfers and exchanges of ownership of bond certificates as same are sold, exchanged, and/or otherwise surrendered in the future. No further action regarding the authorization or execution of additional bond certificates shall be required by the Governing Body, the Mayor or the City Clerk.

In the event that the Current Bonds are not held in a book entry system, at least five business days prior to the delivery of the Current Bonds and the payment of the purchase price for the Current Bonds (the "Closing Date"), each of the Original Purchasers ("Purchasers") shall furnish to the Bond Registrar, the name, address, social security number or taxpayer identification number, principal amount, and maturities of each party to whom the Current Bonds shall have been resold and in whose name the Current Bonds are to be registered. The Registrar shall then issue and deliver to each respective Purchaser, on such Closing Date, fully registered bond certificates for each registered owner so designated, in substantially the same form as that set out in Section 10 hereof.

Pending the preparation of the definitive Current Bonds the City may execute and, upon the City's request, the Registrar shall authenticate and deliver one or more temporary Current Bond(s) that are printed, lithographed, typewritten, mimeographed, or otherwise produced, in any denomination, substantially of the tenor of the definitive Current Bonds in lieu of which they are delivered, in fully registered form without coupons, and with such appropriate insertions, omissions, substitutions, and other appropriate and necessary variations as the officers of the City executing such temporary Current Bond(s) may determine, as evidenced by their signing such temporary Current Bond(s).

Until exchanged for Current Bonds in definitive form, such temporary Current Bond(s) shall be entitled to the benefit and security of this Ordinance. The City shall, without unreasonable delay, prepare, execute, and deliver printed Current Bonds to the Purchasers and/or their designees, and thereupon, upon the presentation and surrender of the temporary Current Bond(s), such printed Current Bonds shall be delivered to the Purchasers and/or their designees in exchange therefor. Such exchange shall be made without the making of any charge therefor to any owner of the Current Bonds.

All Current Bonds shall be exchangeable and transferable upon the presentation and surrender thereof at the corporate trust office of the Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his authorized representative, for a Current Bond or Current Bonds of the same maturity and interest rate and the same Series, and in the denomination of \$5,000 and/or a multiple thereof within a single maturity, in an aggregate principal amount or amounts equal to the unpaid principal amount of the Current Bond or Current Bonds presented for exchange. The Registrar shall be and is hereby authorized to (authenticate and) deliver exchange Current Bonds in accordance with the provisions of this Section 4. Each exchange Current Bond delivered in accordance with this Section 4 shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Current Bond or Current Bonds in lieu of which such exchange Current Bond is delivered.

The Registrar shall not be required to transfer or exchange any Current Bonds (i) during the period between the Regular Record Date and the next Interest Payment Date of such Current Bond; (ii) after notice calling such Current Bond for redemption has been mailed; or (iii) during a period of 15 days next preceding the mailing of a notice of redemption of any Current Bond.

No service charge shall be made for any transfer or exchange of Current Bonds, but the City or the Registrar may require payment of a sum sufficient to cover any tax or any other governmental charge that may be imposed in connection with any transfer or exchange of Current Bonds, except in the case of the issuance of a Current Bond or Current Bonds for the unredeemed portion of a Current Bond surrendered for redemption.

In the event of non-payment of interest on one or more maturities on a scheduled Interest Payment Date, and for 30 days thereafter, a new record date for such interest payment for such maturity or maturities ("Special Record Date") will be established by the Registrar, if and when funds for the payment of such interest shall have been received from the City. Notice of the Special Record Date and of the Scheduled Payment Date of the Past Due Interest ("Special Payment Date", which shall be fifteen days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States Mail, first class, postage prepaid, to the address of each owner of a Current Bond, as shown on the Bond Register, of such maturity or maturities appearing on the books of the Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

Section 5. Provisions as to Mandatory and Optional Redemption. (a) *Mandatory Redemption of Term Bonds.* The Term Bonds, if any, must be mandatorily redeemed on June 1 in each of the respective years set forth in the mandatory redemption schedule set forth in the Sale Certificate. The Term Bonds to be so redeemed shall be selected by the Bond Registrar by lot in such manner (including the determination of whether such redemption in any given year shall be on June 1) as may be determined in the discretion of the Bond Registrar. Such Term Bonds due shall be so mandatorily

redeemed at 100% of the aggregate principal amounts specified in the Sale Certificate for each year plus accrued interest to the respective dates of mandatory redemption.

At the option of the City, to be exercised at least 45 days prior to the date for application of the mandatory redemption of the Term Bonds, if any, the City may receive a credit against the mandatory redemption requirement for Term Bonds subject to the application of such mandatory redemption requirement which, prior to the date for application of such requirement (and for which a credit has not previously been taken) (i) have been redeemed other than through the application of such mandatory redemption procedure, and cancelled by the Bond Registrar, or (ii) have been delivered to the Bond Registrar by the City for cancellation.

(b) Optional Redemption. The Current Bonds maturing on and prior to June 1, 2026, shall not be subject to optional redemption prior to maturity. The Current Bonds maturing on and after June 1, 2027, are subject to optional redemption prior to maturity, in whole or in part, on any date on and after June 1, 2026, and in any order of maturities (less than all of a single maturity to be selected by lot), at a redemption price equal to 100% of the principal amount redeemed on the redemption date.

(c) Redemption of less than a Single Bond. In the event that a Current Bond subject to redemption is in a denomination larger than \$5,000, a portion of such Current Bond may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof, if the Current Bond is one of the maturities or amounts or part of the maturities or amounts called for redemption. Upon surrender of any Current Bond for redemption in part, the Bond Registrar shall authenticate and deliver an exchange Current Bond or Current Bonds in an aggregate principal amount equal to the unredeemed portion of the Current Bond so surrendered.

(d) Notice of Redemption. The Bond Registrar shall give notice of redemption by first class mail, postage prepaid, mailed not less than 25 nor more than 60 days prior to the redemption date to each Holder of Bonds to be redeemed or tendered at the address of such Holder appearing in the Bond Register, and also to such other Persons as the City or BGMU shall deem appropriate.

Neither the failure of any Holder to receive notice mailed as provided herein nor any defect in notice so mailed shall affect the validity of the proceedings for redemption in accordance with this Bond Ordinance.

All notices of redemption shall state:

- (i) the redemption date;
- (ii) the redemption price (including premium, if any);
- (iii) the name of the Bonds to be redeemed, the principal amount of Bonds to be redeemed, and, if less than all Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed;
- (iv) that on the redemption date, the redemption price, as appropriate, of each such Bond will become due and payable, that interest on each such Bond shall cease to accrue on and after such date, and that each such Bond will be deemed to have been redeemed;

(v) the place or places where such Bonds must be surrendered for payment of the redemption price thereof; and

(vi) such additional information as the City, BGMU or the Paying Agent shall deem appropriate.

In the case for an optional redemption pursuant to the Bond Ordinance, the notice of redemption may state (i) that it is conditioned upon the deposit of moneys, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent no later than the redemption date or (ii) that the City retains the right to rescind such notice on or prior to the scheduled redemption date (in either case, a "Conditional Redemption"), and such notice and optional or extraordinary redemption shall be of no effect if such moneys are not so deposited or if the notice is rescinded in writing, and disseminated to each Holder of the Bonds in accordance with the procedures set forth in this Section, no later than 7 days prior to the redemption date.

Notice of redemption having been given as aforesaid, the Bonds to be so redeemed shall become due and payable on the redemption date at the redemption price specified, and on and after such date (unless the City shall default in the payment of the redemption price) such Bonds shall cease to bear interest. Upon surrender of any such Bond for redemption in accordance with such notice, such Bond shall be paid at the redemption price thereof.

All of said Bonds as to which the City reserves and exercises the right of redemption and as to which notice as aforesaid shall have been given, and for the retirement of which, upon the terms aforesaid, funds are duly provided, will cease to bear interest on the redemption date.

The required notice shall be deemed to have been given upon the City furnishing notice of redemption to the Bond Registrar and upon the Bond Registrar acknowledging that it has instructions to send such notice and that it will do so at the proper time, even if the time for furnishing such notice has not yet arrived.

Section 6. Reaffirmation of Declaration of Combined and Consolidated System. The previous action of the City in declaring the existing water and sewer systems of the City to constitute a combined and consolidated revenue-producing public project or system within the meaning of the Act, is hereby authorized, approved, ratified and confirmed; and so long as any of the Current Bonds remain outstanding, said combined and consolidated System, shall be owned, controlled, operated, and maintained on a revenue-producing basis by BGMU, for the security and source of payment of the Bonds.

Section 7. Mutilated, Lost, Stolen or Destroyed Bonds. If any Current Bond shall be mutilated, lost, stolen, or destroyed, the City may execute, authenticate, and deliver a new Current Bond of like maturity and tenor of the same series in lieu of and in substitution for the Current Bond mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Current Bond, such mutilated Current Bond shall first be surrendered to the City, and in the case of any lost, stolen or destroyed Current Bond, there shall be first furnished to the City satisfactory evidence of the ownership of such Current Bond and of such loss, theft, or destruction, together with indemnity satisfactory to the Registrar. If any such Current Bond shall have matured, the City (through the

Registrar) may pay the same instead of issuing a new Current Bond. The City and/or the Registrar may charge the owner of such Current Bond its (their) reasonable fees and expenses in this connection.

Section 8. Authentication of Bonds. The Current Bonds, after execution by the City, shall be delivered to the Bond Registrar. No Current Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until such Current Bond has been duly authenticated by the Registrar by the execution of the Authentication Certificate of Registrar appearing on such Current Bond. Such Certificate appearing on any Current Bond shall be deemed to have been duly executed by the Registrar if manually signed by an authorized officer of the Registrar. It shall not be required that the same officer of the Registrar sign such Certificate on all of the Current Bonds.

Section 9. Bonds Secured By and Payable From Gross Revenues of System. All of the Bonds, with interest thereon, and any additional Parity Bonds that may be issued and outstanding under the conditions and restrictions of this Bond Ordinance, are to be issued in anticipation of the revenues to be derived from the operation of said combined and consolidated System, all as hereinafter more specifically provided, shall be payable on a first lien basis out of the Sinking Fund created by this Bond Ordinance, as hereinafter specifically provided, and shall be a valid first lien of the owners thereof against said Sinking Fund and against a sufficient portion of the Gross Revenues of the System.

Section 10. Bond Form. The authorized issue of Current Bonds shall be in substantially the form set forth in Exhibit A attached hereto.

Section 11. Sale of Bonds. The Current Bonds shall be sold at public sale, such sale to occur after public advertisement as required by law, informing prospective bidders that they may obtain from the City Clerk or from the Financial Advisor, a copy of the Official Statement, containing the Official Terms and Conditions of Sale of Bonds.

A suggested form of "Notice of Bond Sale", a suggested form of "Official Terms and Conditions of Sale of Bonds", and a suggested form of "Bid Form", having been prepared in advance, in accordance with the instructions of the Financial Advisor, by Bond Counsel, and the same having been found to conform to the above conditions, the same are hereby approved. The Notice of Bond Sale may be used for the purpose of publishing notice of the sale of the Current Bonds. Copies of said documents shall be furnished by the Financial Advisor to a list of known interested bidders and to any interested parties who may request same.

A suggested form of Preliminary Official Statement having been prepared by the Financial Advisor, and the same having been found to be in satisfactory form and to contain accurate information concerning the City, BGMU, the System and the Current Bonds, the same is hereby approved and is hereby ordered to be filed in the records of the City Clerk with the minutes of the meeting at which this Ordinance is enacted. The Mayor is hereby authorized to execute the appropriate certification evidencing the approval of such Preliminary Official Statement and a final Official Statement at the time of and/or after the acceptance of the successful bid for the purchase of the Current Bonds.

If, for any reason, it is determined that no bids should be accepted when the Current Bonds are first offered for public sale, then, upon recommendation of the Financial Advisor, the Mayor shall be authorized to approve a change in the required minimum bid price, and also to change the date and

hour of the sale (upon observing all notice requirements of Kentucky law), and the Mayor and/or City Clerk are further authorized to readvertise such Current Bonds for public sale and to approve a revised Notice of Bond Sale, Bid Form, and Official Terms and Conditions of Sale of Bonds, and to distribute same to prospective bidders, without the necessity of the Governing Body taking any further action or granting any further authority for such proceedings.

Section 12. Acceptance of Bid for Purchase of Bonds; Determination of Amount of Bonds to be Issued and Sold. Upon the date and at the hour set forth for the opening and consideration of purchase bids, as provided in the instruments hereinabove approved, the sealed or electronic bids received by BGMU on behalf of the City, shall be publicly opened and reviewed. If there shall be one or more bids that conform in all respects to the prescribed terms and conditions, the same shall be compared and the City Manager or the City Chief Finance Officer and the General Manager or the Board Chief Finance Officer agree to accept any bid, it will, on the same day that such bids are received, accept the best of such bids, as measured in terms of the lowest true interest cost to the City.

The City Manager or the City Chief Finance Officer and the General Manager or the Board Chief Finance Officer, pursuant to a Sales Certificate executed after the opening of bids for the purchase of the Current Bonds, shall determine, establish and set the aggregate principal amount of Current Bonds to be issued, the principal maturities of the Current Bonds and the interest rates on the Current Bonds; provided that the true interest cost on the Current Bonds shall not exceed 6%.

Section 13. Continuance of Special Funds. The System shall continue to be operated by BGMU as a combined and consolidated water and sewer system for the security and source of payment of the Bonds, on a fiscal year basis from July 1 of each year to June 30 of each ensuing year, or on such other fiscal year basis as shall be adopted for the operation of the System, and the Gross Revenues of the System shall be set aside monthly and allocated as set out below, subject to the provisions of Section 18 hereof.

There has previously been created and hereby reaffirmed to be maintained at the respective Depository Bank, provided such Depository Bank must comply with the provisions of this Ordinance as to investment and security for funds so deposited, the following funds or accounts:

1. Bowling Green Municipal Utilities Water and Sewer Revenue Fund (the "Revenue Fund").
2. Bowling Green Municipal Utilities Water and Sewer Sinking Fund (the "Sinking Fund"), consisting of two separate accounts, the Interest Account and the Principal Account.
3. Bowling Green Municipal Utilities Water and Sewer Operation and Maintenance Fund (the "Operation and Maintenance Fund").
4. Bowling Green Municipal Utilities Water and Sewer Reserve Fund (the "Reserve Fund").
5. Bowling Green Municipal Utilities Water and Sewer Depreciation Fund (the "Depreciation Fund").

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6. City of Bowling Green Water and Sewer Bond Payment Account (the "Payment Account").

There is hereby created to be maintained at the respective Depository Bank, provided such Depository Bank must comply with the provisions of this Ordinance as to investment and security for funds so deposited the Bowling Green Municipal Utilities Water and Sewer Project Fund (the "Project Fund").

Unless specifically stated in this Ordinance otherwise, moneys deposited into such respective Funds shall be maintained, invested, and applied by the Registrar in the manner prescribed in Section 18 of this Ordinance.

Section 14. Disposition of Proceeds of Current Bonds. Upon the sale and delivery of the Current Bonds and upon receipt by the City of the purchase price thereof, the proceeds of the Current Bonds shall be deposited in the Project Fund and disbursed as follows:

(a) There shall first be deducted and paid from the proceeds of the sale of the Current Bonds the fee of the Financial Advisor, according to the terms of the contract of said Financial Advisor, as heretofore approved, the fee of Bond Counsel with reference to the issuance of the Current Bonds, any applicable rating agency fee or fees, and any other pertinent expenses incident to the issuance, sale and delivery of the Current Bonds and such other appropriate expenses as may be approved by the General Manager or the Board Chief Finance Officer.

(b) There shall next be deposited to the Reserve Fund, an amount, if any, to bring the amount in the Reserve Fund equal to the Required Reserve.

(c) For the purpose of paying the costs of the construction and installation of the Project there shall be paid to the appropriate parties approved by the General Manager or the Board Chief Finance Officer the costs of the Project, including but not limited to such capitalized interest as approved by the General Manager or the Board Chief Finance Officer.

(d) After completion of the Project, the entire remainder of the proceeds received from the sale of the Current Bonds shall be deposited in the Revenue Fund.

Pending application of money in the Project Fund as set forth in this Section, such money shall be invested and reinvested by BGMU in Investments. All investment earnings, if any, on money in the Project Fund shall be deposited and remain in the Project Fund until completion of the Project.

Section 15. Federal Limitations on Investment of Funds. The City covenants and certifies, in compliance with Federal arbitrage regulations, on the basis of known facts and circumstances in existence on the date of enactment of this Bond Ordinance, that it is not expected that the proceeds of the Current Bonds will be used in a manner which would cause the Current Bonds to be "arbitrage bonds," within the meaning of Section 148 of the Code and the applicable regulations. The City covenants to the purchasers and/or holders of the Current Bonds that (1) the City will make no use of the proceeds of said Current Bonds, which, if such use had been reasonably expected on the date of issue of such Current Bonds, would have caused such Current Bonds to be "arbitrage bonds", and (2) that the City will comply with (i) all of the requirements of Section 148 of the Internal Revenue Code,

and (ii) all of the requirements of applicable Income Tax Regulations thereunder, to whatever extent is necessary to assure that the Current Bonds shall not be treated as "arbitrage bonds".

The City certifies, based on known facts and reasonable expectations at this time, as follows:

(a) that the original proceeds of the Current Bonds will not exceed the amount required to complete the construction and installation of the Project; and therefore there has not been and there will not be an over issuance of the Current Bonds;

(b) that it is anticipated that amounts on deposit in the Sinking Fund will be used within thirteen (13) months from the date of deposit for the payment of debt service on the Outstanding Bonds; and that, except for an amount equal to not more than the greater of (a) one-twelfth (1/12th) of debt service requirements of the Outstanding Bonds for the then ensuing year, or (b) one year's earnings on the Sinking Fund, the Sinking Fund will annually be depleted through such application, for current debt service requirements of the Outstanding Bonds;

(c) that it is not anticipated that amounts will be accumulated in any reserve fund(s) anticipated to be used for debt service on the Outstanding Bonds in excess of the Required Reserve;

(d) that it is not reasonably anticipated that amounts accumulated in the Depreciation Fund will be used for payment of debt service on any Outstanding Bonds, even though such Depreciation Fund will be so available if necessary to prevent a default in the payment of principal and interest on such Outstanding Bonds; and

(e) that the City has not been advised of any listing or contemplated listing by the Internal Revenue Service determining that such certification with respect to its obligations may not be relied on.

The City covenants and agrees that in the event it is subsequently determined by the City, upon the advice of Bond Counsel, that the funds created herein are subject to the "rebate requirements" on excess earnings in favor of the United States of America imposed by Section 148(f) of the Code and that such funds in fact generate earnings from "non-purpose investments" in excess of the amount that said investments would have earned at a rate equal to the "yield" on the Current Bonds, plus any income attributable to such excess, there shall be established a separate and special fund, which fund shall be designated the "Excess Earnings and Rebate Fund", which shall be utilized for the collection and payment of any excess generated from investments and the remittance thereof to the United States of America on or before the fifth anniversary date of the issuance of the Current Bonds, and once every five (5) years thereafter until the final retirement of the Current Bonds; the last installment, to the extent required, to be made no later than sixty (60) days following the date on which funds sufficient for the complete retirement of the Current Bonds are deposited with the Paying Agent. The City further covenants to file any and all reports, if any, as may be required to be filed with the United States Government with regard to the liability or non-liability of the City as to any such rebate requirements and to maintain records in regard thereto for the period of time required by applicable Treasury Regulations.

Prior to or at the time of delivery of the Current Bonds, the Mayor and the City Chief Financial Officer, who are jointly and severally charged with the responsibility for the issuance of the Current Bonds, are jointly and severally authorized to execute the appropriate certification with reference to the matters referred to above, setting out all known and contemplated facts (apart from legal conclusions) concerning such anticipated expenditures and investments, including the execution of necessary and/or desirable certifications of the type contemplated by the "Arbitrage Regulations", as amended, in order to assure that interest on the Current Bonds will be excluded from gross income for Federal income tax purposes and that such Current Bonds will not be treated as "arbitrage bonds".

Section 16. Defeasance and/or Refunding of Bonds. The City reserves the right, at any time, to cause the pledge of the revenues securing all or a portion of the Current Bonds, to be defeased and released and/or refunded and redeemed by paying an amount into an irrevocable escrow sufficient, when invested (or sufficient without such investment, as the case may be) in cash and/or U.S. Obligations (the "Future Escrow"), to assure the availability in such Future Escrow of an adequate amount (a) to call for redemption and to redeem and retire such Current Bonds, both as to principal and as to interest, on any optional redemption date, including all costs and expenses in connection therewith, and to pay all principal and interest falling due on such Outstanding Bonds to and on said date, or (b) to pay all principal and interest requirements on such Outstanding Bonds as same mature, without redemption in advance of maturity (other than by scheduled mandatory redemption) the determination of whether to defease under (a) or (b) or both to be made by the Governing Body of the City.

Such Future Escrow shall have such maturities as to assure that there will be sufficient funds for such purpose. If such defeasance is to be accomplished pursuant to clause (a) above, the City shall take all steps necessary to publish appropriate notice of the redemption of such Outstanding Bonds on whatever redemption date is determined. Upon the proper amount of such investments being placed in escrow and so secured, such revenue pledge shall be automatically fully defeased and released without any further action being necessary; provided (i) no such defeasement shall be accomplished through the use of amounts on deposit in the Reserve Fund or through any other funds if such defeasement would, in the opinion of recognized Bond Counsel, adversely affect the exemption of interest on any of the Outstanding Bonds from Federal income taxation, and (ii) no such defeasement shall require that any Current Bonds be redeemed in advance of maturity if a right to defease the Current Bonds without redemption in advance of maturity shall have become vested.

Section 17. All Bonds of this Issue Are Equal. Any Bonds, from time to time Outstanding, shall not be entitled to priority one over the other in the application of the Gross Revenues of the System regardless of the time or times of their issuance, it being the intention that there shall be no priority among the Bonds authorized or permitted to be issued under the provisions of this Ordinance, any Prior Ordinance or any future ordinance or resolution authorizing Parity Bonds, regardless of the fact that they may be actually issued and delivered at different times.

Section 18. Flow of Funds. (a) *Revenue Fund.* The System shall continue to be operated as a combined and consolidated revenue-producing public project or System and shall be operated for the purpose of this Ordinance on a fiscal year basis commencing on July 1 of each calendar year and ending on the next succeeding June 30 (hereinafter sometimes referred to as the "Sinking Fund Year") or such other appropriate fiscal year as shall be designated by the Governing Body, and all of the Gross Revenues of the System shall be set aside into the Revenue Fund from which fund sums deposited

therein shall be apportioned to the various funds and accounts as set out in the ensuing subsections of this Section.

Notwithstanding anything herein to the contrary, and provided there is no Event of Default hereunder, the City and BGMU may treat the provisions of this Ordinance relating to the establishment of a Revenue Fund and the transfers and deposits thereto and therefrom, as having been satisfied by BGMU using its Operation and Maintenance Fund in place of the Revenue Fund.

(b) Sinking Fund. The Sinking Fund shall consist of two separate accounts, an Interest Account and a Principal Account. [Hereinafter the Interest Account and the Principal Account will sometimes be referred to as the "Sinking Fund Accounts"].

There shall be transferred on or before the 10th day of each month from the Revenue Fund and deposited into the Sinking Fund, to be apportioned as hereinafter set out, an amount sufficient to satisfy the amounts required to be deposited from the Revenue Fund into the Sinking Fund Accounts. The amounts to be so set aside and paid into the Sinking Fund in each month, in equal installments shall be amounts to pay the annual debt service requirements of the Bonds as same fall due, which amounts are more specifically determined to be as follows:

- (1) Interest Account: Amounts sufficient in the aggregate, to pay the interest on the Bonds falling due on the next succeeding Interest Payment Date. Amounts on deposit in the Interest Account shall be used solely for the payment of interest currently falling due on the Bonds.
- (2) Principal Account: Amounts sufficient in the aggregate, to pay the principal of the Bonds maturing or falling due by reason of mandatory redemption, on the next succeeding June 1 or December 1. Amounts on deposit in the Principal Account shall be used solely for the purpose of paying the principal of the Bonds when due at maturity or pursuant to any mandatory call for redemption.

Provided, however, that no further payments need be made into the Sinking Fund after and so long as such amount of the Bonds shall have been retired that the amount then held in the Sinking Fund, including the Reserve Fund, shall be equal to the entire amount required to retire and/or redeem all Bonds then outstanding and paying all interest that will accrue to or at the time of such retirement and/or redemption.

If for any reason the City shall fail to cause to be paid into the Sinking Fund the amount required to be paid into the Sinking Fund in any month, then an amount equal to such deficiency shall be set apart from the Gross Revenues of the System and paid into the Sinking Fund from the first available revenues.

All amounts on deposit in the Sinking Fund, including all Sinking Fund Accounts, shall constitute a trust fund and shall be and are hereby earmarked and pledged for the security and source of payment for the Bonds.

On or before the 29th days of May and November in each year, the Depository Bank shall transfer from the Sinking Fund (and from the Reserve Fund if necessary) a sum equal to the interest

and/or a sum equal to the principal and interest, as the case may be, becoming due on the next following respective June 1 or December 1, and transfer in immediately available funds the same to the Payment Account. Funds on deposit in the Payment Account shall be held as a trust fund to be drawn upon by the Paying Agent to pay principal and/or interest installments on the Bonds in accordance with the terms of the Bonds. The Paying Agent shall keep appropriate records as a payment of principal of and interest on the Bonds. The Paying Agent shall not invest funds on deposit in the Payment Account, and any monies left in the Payment Account after the payment of principal and interest will be credited to the City or used to reduce the amount necessary to be paid from the Sinking Fund to the Payment Account.

In the event that the Depository Bank does not have sufficient funds to transfer the required amounts to the Paying Agent as specified in the foregoing, the Depository Bank shall advise the Paying Agent of the amount of any deficiency in the amount so transferred so that the Paying Agent may give appropriate notice required to provide for the payment of such deficiency from the Reserve Fund.

(c) *Reserve Fund.* The Reserve Fund shall be held for the benefit of the Holders of the Bonds and shall be used solely for the purpose of paying principal of or interest on such Bonds as to which there would otherwise be a default. There shall be deposited into the Reserve Fund in each month an amount equal to at least 1/60 of the Required Reserve until such Required Reserve shall have been accumulated; provided, however, that the foregoing requirement for monthly deposits into this account shall be considered satisfied so that no deposit shall be required to be made into that account so long as the amount on deposit therein (including the maximum amount then payable under all Reserve Fund Insurance Policies) shall equal the Required Reserve.

Provided, that in the event that any funds shall be paid by any Reserve Fund Insurance Policy or funds then on deposit shall be withdrawn from the Reserve Fund, the City shall be obligated to cause to have transferred funds from the Revenue Fund to the Reserve Fund in each month in an amount equal to at least 1/12 of the Required Reserve until such Required Reserve has been restored or until the face amount of the Reserve Fund Insurance Policy (together with the amount then on deposit in the Reserve Fund) shall equal the Required Reserve.

Amounts on deposit in the Reserve Fund, including amounts available under the Reserve Fund Insurance Policy, may be withdrawn and used by the Paying Agent, when necessary, and shall be so withdrawn and used if and to the extent necessary to prevent the occurrence of an Event of Default, for the purpose of making payments of principal of and interest on the Bonds (including both principal maturities and mandatory redemptions) if the amounts on deposit in the Sinking Fund are not sufficient to make such payments.

If, whenever, and so long as the Reserve Fund contains more than one surety or Reserve Fund Insurance Policy, any charge, draw, withdrawal, or other reduction in or from such Reserve Fund must be made pro rata against such surety and/or Reserve Account Insurance Policies after the depletion of any cash or assets other than surety bonds or policies.

As and when additional Parity Bonds are issued, provision shall be made similarly for increasing the Reserve Fund, if necessary and to the extent not fully funded concurrently with the issuance of such Parity Bonds, to not less than the Required Reserve applicable to all Bonds then

scheduled to be outstanding falling due in any 12 month period thereafter, by (a) the immediate deposit in cash and/or Investments of such additional amount required to provide such increased Required Reserve, or (b) obtaining a Reserve Fund Insurance Policy to effect such funding.

Income from any investment of the proceeds of any Parity Bonds deposited in the Reserve Fund may be credited to any then current project or construction account until completion of the then current construction project, and after such completion, as certified by the Engineers, such income shall be credited to the Interest Account in the Sinking Fund; interest received from any investment of collected accrued interest and the proceeds of such Parity Bonds representing interest during construction deposited in the Interest Account may also be credited to the then current construction account pending disbursement of such sums and proceeds to pay the interest on the Parity Bonds, provided, further, that no such investment income shall be so credited to the then current construction account unless all payments otherwise required to be made into the particular accounts in the Sinking Fund are current and there are no deficiencies in any of such Sinking Fund Accounts or the Reserve Fund.

(d) Depreciation Fund. Whenever the balance on deposit in the Depreciation Fund shall be less than \$1,500,000, or such greater amount as may be determined by the Board (the "Required Depreciation Balance"), there shall be transferred from the Revenue Fund and deposited into the Depreciation Fund, on or before the 10th day of each month, an amount equal to at least 1/60 of such Required Depreciation Balance; provided that so long as the Required Depreciation Balance shall be maintained in such Depreciation Fund, no further deposits shall be required to be made therein.

Moneys in the Depreciation Fund may be withdrawn and used upon appropriate certification by the Board's General Manager, for the purpose of paying the costs of making unusual or extraordinary maintenance, repairs, renewals and/or replacements to the System, not included in the Annual Budget of Current Expenses, which would be necessary to keep the System in good operating condition, only when there is not sufficient money for such purpose included in the Annual Budget, or for paying the costs of constructing extensions, additions and/or improvements to the System that will either enhance the revenue-producing capacity of the System or provide a higher degree of service; provided, however, that if the available balance in the Sinking Fund and the Reserve Fund on May 15 or November 15 shall be insufficient to pay the next maturing installment of interest and/or principal (including mandatory redemption payments) falling due on the Bonds, the City shall cause a withdrawal and transferral from the Depreciation Fund of such amounts as may be required to eliminate the deficiency in the Sinking Fund and to avoid a default. Any such withdrawal shall be promptly restored to the Depreciation Fund from the first revenues of the System available (1) in the event that other legally available moneys of the System, including the proceeds of Reserve Fund Insurance Policy, if any, shall be available, (2) if any surplus funds are available after meeting all current requirements of the Sinking Fund and the Reserve Fund or (3) as shall be determined by the Board. However, it is not anticipated that any sums in the Depreciation Fund will be used to meet requirements of the Sinking Fund.

There shall also be deposited in said Depreciation Fund the proceeds of any property damage insurance not immediately used to replace the damaged or destroyed property of the System. Such deposits shall not reduce or serve as a credit against the amount of the Required Depreciation Balance otherwise required or any other amounts required to be deposited into the Depreciation Fund.

As and when additional Parity Bonds are issued, provision shall be made for additional payments into the Depreciation Fund (thus increasing the Required Depreciation Balance) in whatever amount shall be recommended by the Engineers and/or determined by the Board, provided such additional amounts shall be accumulated therein in approximately equal installments over a period of not exceeding 60 months.

All funds on deposit in the Depreciation Fund shall be kept separate and apart from all other municipal funds and shall be deposited, secured and/or invested in the manner provided herein.

(e) Operation and Maintenance Fund. After the requirements of the preceding funds described above have been satisfied, there shall be transferred from the balance of the income and revenues remaining in the Revenue Fund on or before the 10th day of each month, into the Operation and Maintenance Fund, such amount as shall be determined by the Board to be necessary and sufficient to pay the reasonable and current expenses of operating, maintaining, and insuring the System for the current month. After the 10th day of each month, further transfers may be made in like manner only if and to the extent that it shall become necessary to pay such expenses actually accrued and payable.

All costs of operating, maintaining, and insuring the System shall be paid from the Operation and Maintenance Fund.

All funds in the Operation and Maintenance Fund shall be maintained separate and apart from all other municipal funds and shall be deposited, secured, and/or invested in the manner provided herein.

(f) Surplus Balances in the Revenue Fund. After all specified and required transfers and payments into the special funds hereinabove provided have been made and there is a balance on deposit in the Revenue Fund in excess of the amount required to be transferred into said special funds, all or any part of such excess may be used as follows:

(1) To retire or redeem Outstanding Bonds in inverse order of maturities in accordance with the terms thereof;

(2) To purchase Bonds at the sole option and discretion of the Board, at a price not to exceed the then applicable or next applicable redemption price of such respective series of bonds;

(3) To transfer additional amounts to the Reserve Fund, the Operation and Maintenance Fund and/or the Depreciation Fund;

(4) To repay any amounts, if any, drawn under the Reserve Fund Insurance Policy, including interest thereon;

(5) To pay the debt service requirements of any outstanding subordinate obligations payable from the income and revenues of the System; or

(6) For any other lawful corporate purpose of the Board or the City related solely to the System.

(g) *Security for and Investment of Deposits.* The City covenants and agrees to establish and maintain the respective Funds as provided herein and all funds so deposited, to the extent that same shall cause deposits of the City in any banks to exceed the amount insured by the FDIC, shall be continuously secured by a valid pledge of bonds or notes of the United States Government having an equivalent market value; or same shall be secured by a surety bond or bonds furnished by a surety company or companies qualified or authorized to do business in Kentucky; or such portion of such Funds as shall be designated by the Board shall be invested in Investments as defined herein, maturing as needed under this Ordinance. All such Investments shall be valued for the purposes hereof in terms of their market value on June 30 of each year.

Said Depository Bank shall be obligated to send written notice to the Board of the need for investment directions if and whenever funds in excess of \$10,000 shall remain uninvested for a period of more than 5 days.

Section 19. Reliance on BGMU by City that Proportions of Revenues to be Deposited are Correct. The City, relying upon the expertise and advice of BGMU, hereby finds and determines that, exclusive of the payments required to be made into the Sinking Fund, the amounts that are provided to be paid into the Reserve Fund, the Depreciation Fund and into the Operation and Maintenance Fund are proper and sufficient for the purposes thereof.

Section 20. Administration of Funds. The City and BGMU shall have insurance or a surety covering each officer or other person having custody of any moneys administered under the provisions of this Ordinance in such amounts as is customary for public entities operating a water and sewer system similar to the System. The City and BGMU will segregate and earmark such funds, consistent with the provisions of this Ordinance. Any premium of such insurance or surety shall constitute a proper expense of operating and maintaining the System, and may be paid from amounts available in the Operation and Maintenance Fund.

Section 21. Adoption of Budget; Fiscal Year. The City covenants and agrees that prior to the delivery of the Current Bonds, the Governing Body of the City or the Bowling Green Municipal Utilities Board will adopt an Annual Budget of Current Expenses (the "Annual Budget") for the operation of the System for the remainder of the then fiscal year, and thereafter on or before the first day of July of each year prior to the year of final maturity of the Current Bonds, the Governing Body of the City or the Bowling Green Municipal Utilities Board will adopt an Annual Budget for the ensuing fiscal year, and will furnish a copy of such Budget or amendment thereto, upon request, to any Bondowners. Current Expenses in the Annual Budget shall include all reasonable and necessary costs of operating, repairing, maintaining in the Annual Budget and insuring the System, but shall exclude payments into the Sinking Fund. The City further covenants that at the same time and in like manner, the Governing Body of the City or the Bowling Green Municipal Utilities Board shall prepare an estimate of Gross Revenues to be derived from the operation of the System for said fiscal year and that sufficient Gross Revenues shall be provided, through the maintenance of proper rates and charges (and through the increase thereof if necessary) to satisfy the requirements of all of the provisions contained in this Ordinance, including the accumulation and maintenance of all required reserves specified herein.

Section 22. Rates and Charges for Services of the System. While the Bonds remain outstanding and unpaid, the City and BGMU covenant to charge for all services and facilities rendered by the System to the City and to its citizens, corporations, or others requiring same, such rates and amounts as shall be reasonable and just, taking into account and consideration the cost and value of the System, the cost of maintaining and operating the same, the proper and necessary allowance for depreciation thereof, and the amounts necessary for the retirement of all Bonds outstanding against the System and the accruing interest on all such Bonds, and any inferior bonds. There shall be charged such rates and amounts as shall be adequate to meet all requirements of this Ordinance and the City and BGMU covenant not to furnish service from the System free of charge and not to establish preferential rates for users of the same class.

The City and BGMU covenant that they will not reduce the rates and charges for services rendered by the System without first filing with the City Clerk a certification of an Independent Engineer, to the effect that the annual Net Income Available for Debt Service of the System for the fiscal year preceding the date on which such reduction is proposed, as such annual revenues are adjusted, after taking into account the projected reduction in revenues anticipated to result from such proposed rate decrease, are equal to not less than 120% of the Maximum Annual Debt Service requirements falling due in any year thereafter for the principal of and interest on all of the then Outstanding Bonds, calculated in the manner specified in Section 23 hereof.

The City and BGMU further covenant that so long as any of the Bonds remain outstanding and unpaid that such rates and charges for services of the System will be imposed and collected so that the Net Income Available for Debt Service of the System will be equal to an amount not less than 1.20 times the Maximum Annual Debt Service of the System, and to enact promptly and enforce increased rates whenever such increase shall be necessary to fulfill any covenants of or payments required by this Ordinance, including the amounts payable (including interest) to the issuer of any Reserve Fund Insurance Policy.

Section 23. Provision Permitting Additional Parity Bonds. The Bonds shall not be entitled to priority one over the other in the application of the income and revenues of the System, regardless of the time or times of their issuance, it being the intention that there shall be no priority among the Bonds, regardless of the fact that they may be actually issued and delivered at different times, and provided further that the lien and security of and for any bonds or obligations hereafter issued that are payable from the income and revenues of the System shall, except as set out herein, be subject to the priority of the Bonds as may from time to time be outstanding; provided the City hereby reserves the right and privilege of issuing additional bonds from time to time payable from the Gross Revenues of the System ranking on a parity with the Bonds, for the purpose of refunding any outstanding bonds and/or financing the cost, not otherwise provided, of new waterworks and/or sewer facilities and/or related auxiliary facilities, and/or financing future extensions, additions, and/or improvements to the System, or any part thereof, provided in each instance that:

(a) The facility or facilities to be constructed from the proceeds of the Parity Bonds is or are made a part of the System and its or their revenues are pledged as additional security for the additional Parity Bonds and the Outstanding Bonds.

(b) There shall have been procured and filed with the City Clerk a statement by a Certified Public Accountant or Independent Engineer reciting the opinion that the Net Income Available for

Debt Service for the System's most recent fiscal year preceding the issuance of said Parity Bonds (with adjustments as hereinafter provided) were equal to at least one hundred and twenty percent (120%) of the Maximum Annual Debt Service requirements for all the then Outstanding Bonds plus the Parity Bonds then proposed to be issued. (The calculation of Maximum Annual Debt Service requirements of the additional Parity Bonds then proposed to be issued shall be determined on the basis of the principal of, and interest on, such Parity Bonds being payable in approximately equal annual installments, with the amounts of the respective mandatory redemption installments of any then proposed Term Bonds which are to be part of such additional Parity Bonds, being treated as principal maturities of such Parity Bonds for the purpose of calculating Maximum Annual Debt Service requirements.

Such Net Income Available for Debt Service may be adjusted for the purpose of the foregoing computations to reflect (i) any revisions in the schedule of rates and charges being imposed for the services of the System at the time of issuance of any such Parity Bonds, including any revised schedule of rates established by City Ordinance providing for rate increases to "be phased in" over a two or three year period, and also to reflect (ii) any increase in such net revenues projected to be produced in any fiscal year within three years after the issuance of such proposed Parity Bonds by reason of the Gross Revenues anticipated to be derived from the extensions, additions and/or improvements to the System being financed in whole or in part) by such Parity Bonds, provided (A) no projection for such latter adjustment shall be made as to any customers other than structures, dwellings, businesses and/or manufacturing establishments located on or which will abut on extensions, additions and/or improvements to the System in existence at the time of the issuance of such Parity Bonds and/or being financed (in whole or in part) by such Parity Bonds; and (B) such latter adjustment shall be made only if contracts for the immediate acquisition and/or construction of such extensions, additions and/or improvements have been or will have been entered into (secured by 100% performance bond) prior to the issuance of such Parity Bonds. All adjustments provided for in this paragraph shall be based upon the written certification of an Independent Engineer.

(c) The face amount of the Reserve Fund Insurance Policy will be increased and/or an additional guaranty agreement, surety bond or insurance policy will be obtained from an insurance company or surety company, in a face amount such that the aggregate of the maximum amount payable by the issuers of all such instruments is equal to the Required Reserve for all bonds that are scheduled to be outstanding under the terms of the bond ordinance then contemplated to be enacted to authorize the issuance of such then proposed Parity Bonds; or the aggregate value of the maximum amounts payable by the issuers of the Reserve Fund Insurance Policy and all similar instruments then in effect and on deposit in the Reserve Fund plus the amount of money that is required to be deposited in the Reserve Fund immediately upon the issuance of the Parity Bonds then proposed to be issued must be equal to at least the Required Reserve for all bonds then scheduled to be outstanding under the terms of the then proposed Parity Bond ordinance or resolution immediately following the issuance of such proposed Parity Bonds;

(d) If City cannot obtain a Reserve Fund Insurance Policy or elects not to obtain such Reserve Fund Insurance Policy, the requirement as to funding of the Reserve Fund shall be satisfied if a cash and/or Investments amount equal to not less than the Required Reserve of all Outstanding Bonds, including the proposed Parity Bonds, shall be deposited or be on deposit in the Reserve Fund.

(e) The amount available to be paid to the Paying Agent under the terms of the Reserve Fund Insurance Policy or any other similar guaranty agreement, surety bond, or insurance policy,

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under the respective terms thereof, shall be equal to the maximum limit specified in such Reserve Fund Insurance Policy or such other guaranty agreement, surety bond or insurance policy then in effect.

If, at the time of issuance of such Parity Bonds, the ordinance (and/or other appropriate document) of the City authorizing such Parity Bonds shall contain a provision requiring the funding, completion of the funding, or additional funding of the Reserve Fund with cash and/or surety bonds, such provision must also require that any necessary use of such Reserve Fund must be drawn against the cash portion thereof until all of such cash portion is exhausted before any resort to, or demand shall be made on, the surety bond portion of such Reserve Fund.

The City further reserves the right to issue one or more additional series of Parity Bonds to be secured by a parity lien on and ratably payable from the Gross Revenues of the System for the purpose of refunding or refinancing the Outstanding Bonds or any portion thereof, provided that prior to the issuance of such Parity Bonds for that purpose, there shall have been procured and filed with the City Clerk:

(1) a statement by a Certified Public Accountant as defined herein, reciting the opinion based upon necessary investigation that after the issuance of such Parity Bonds, the Net Income Available for Debt Service, as adjusted and defined above, of the then existing System for the fiscal year preceding the date of issuance of such Parity Bonds, after taking into account the revised debt service requirements resulting from the issuance of such Parity Bonds and from the elimination of the Bonds being refunded or refinanced thereby, are equal to not less than 120% of the Maximum Annual Debt Service then scheduled to fall due in any fiscal year thereafter for principal of and interest on all of the then Outstanding Bonds payable from the Gross Revenues of the System, calculated in the manner specified above; or

(2) in the alternative, a statement by the Financial Advisor, reciting the opinion based upon necessary investigation that the debt service requirements for the Bonds, and the proposed refunding Parity Bonds, in any year of maturities thereof after the redemption of the Bonds scheduled to be refunded through the issuance of such proposed refunding Parity Bonds, shall not exceed the debt service requirements applicable to the then outstanding Bonds for such year prior to the issuance of such proposed Parity Bonds and the redemption, retirement, or defeasement of the Bonds to be refunded, and without extending the maturities of such refunding Parity Bonds beyond the maturities of the Bonds being refunded.

The additional Parity Bonds, the issuance of which is restricted and conditioned by this Section, shall be understood to mean bonds payable from the Gross Revenues of the System on a parity with the Bonds and shall not be deemed to include nor to prohibit the issuance of any other obligations, the security and source of payment of which is subordinate and subject to the priority of the payments into the Sinking Fund for the Bonds.

Interest payments for all such additional Parity Bonds shall be semi-annually on June 1 and December 1 of each year, and the principal maturities thereof shall be on June 1 and/or December 1 of the year in which any such principal is scheduled to become due.

Section 24. General Covenants of the City with Regard to the Operation of the System.

So long as any of the Bonds are outstanding, the City and BGMU covenant with respect to the System as follows:

(a) *Service to the City.* The reasonable cost and value of any service rendered by the System to the City shall be charged against the City and paid thereby (from any legal sources or funds available other than funds derived from the revenues of the System) as the service accrues, and the proceeds thereof shall be deposited in the Revenue Fund the same as all other revenues of the System.

(b) *Disposal of Property.* The City and/or BGMU will not sell or otherwise dispose of any of the facilities of the System, or any part thereof, and, except as provided for above, it will not create or permit to be created any charge or lien on the revenues thereof ranking equal or prior to the charge or lien of the Bonds. Notwithstanding the foregoing, the City and/or BGMU may at any time permanently abandon the use of, or sell at the fair market value, any part of the facilities of the System, provided that:

(1) It is in compliance with all covenants and undertakings in connection with all of the bonds then outstanding and payable from the revenues of the System and the Reserve Fund for such Bonds is being maintained therein at the Required Reserve;

(2) It will, in the event of any such sale, apply the proceeds to either (i) redemption of Outstanding Bonds in accordance with the provisions governing prepayment of bonds in advance of maturity or purchase of bonds in the open market at not exceeding the next applicable redemption price, or (ii) replacement of the facility so disposed of by another facility, the revenues of which shall be incorporated into the System as hereinbefore provided;

(3) It certifies, in good faith, prior to any abandonment of use, that the facility or facilities to be abandoned is or are no longer economically feasible of producing substantial net revenues;

(4) It certifies, in good faith, that the estimated net revenues of the remaining facilities of the System for the then next succeeding fiscal year, plus the estimated net revenues of the facility or facilities, if any, to be added to the System, comply with the earnings requirements hereinbefore provided in the provisions and conditions governing the issuance of additional Parity Bonds; and

(5) The balance of the proceeds of any such sale or disposition shall be paid into the Depreciation Fund and shall not be permitted to reduce the amount otherwise required to be paid into said Depreciation Fund.

(c) *General Operation.* The City has established and designated BGMU to operate and maintain the System in good condition, and the City shall cause BGMU to faithfully and punctually perform all duties with reference to the System required by the Constitution and Statutes of the Commonwealth of Kentucky, shall charge and collect lawfully established rates and charges for services rendered by the System, and will promptly adopt and enforce increased rates for the services of the System whenever such increase shall be necessary to comply with any covenant of this Ordinance, or to make any payment required by this Ordinance, including amounts payable to the City

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of any Reserve Fund Insurance Policy. BGMU has agreed to fulfill and abide by the covenants of the City with respect to the System set forth in this Ordinance.

(d) *Records and Audits.* Insofar as to be consistent with the laws of Kentucky, the City agrees that so long as any of the Bonds remain outstanding, it will keep or cause the Bowling Green Municipal Utilities Board to keep proper books of records and account showing complete and correct entry of all transactions relating to the System in accordance with generally accepted accounting principles (for facilities of like type and size), in which complete and correct entries shall be made of all pertinent transactions. All such records and books of account shall at all times during normal business hours be subject to inspection by the owners of 10% or more of the principal amount of the Bonds then outstanding, or by their duly authorized representatives.

The City further covenants that as soon as may be feasible after the close of each fiscal year, and in any event not later than one hundred twenty (120) days thereafter, the City will cause an audit of the financial affairs of the System to be prepared by a Certified Public Accountant, covering the operation of the System for the preceding fiscal year, and that within four (4) months after the close of each fiscal year the City will furnish to any Owner of the Outstanding Bonds who shall request same in writing, a copy of such annual audit report.

A copy of said audit report shall be kept on file in the office of the City Clerk and at the office of the Bowling Green Municipal Utilities Board, where such report will be subject to inspection at any reasonable time by or on behalf of any owner of Outstanding Bonds. A condensation of the important facts shown by such report will be mailed to any such Bondowner upon request.

Section 25. Covenant of City to Take All Action Necessary to Assure Compliance with the Internal Revenue Code of 1986. In order to assure purchasers of the Current Bonds that interest thereon will continue to be exempt from all federal and Kentucky income taxation (subject to certain exceptions set out below), the City covenants to and with the owners of the Current Bonds that (1) the City will take all actions necessary to comply with the provisions of the Code, (2) the City will take no actions that will violate any of the provisions of the Code or would cause the Current Bonds to become "private activity bonds" within the meaning of the Code, (3) none of the proceeds of the Current Bonds will be used for any purpose that would cause the interest on the Current Bonds to become subject to federal income taxation, and (4) the City will comply with any and all requirements as to rebate (and reports with reference thereto) to the United States of America of certain investment earnings on the proceeds of the Current Bonds.

The City certifies that these Current Bonds are not "private activity bonds" within the meaning of the Code, and the City has been advised by Bond Counsel, and therefore believes, that interest on the Current Bonds is not included as an item of tax preference in calculating the alternative minimum tax for individuals.

The City reserves the right to amend this Bond Ordinance without obtaining the consent of the Owners of the Current Bonds (1) to whatever extent shall, in the opinion of Bond Counsel, be deemed necessary to assure that interest on the Current Bonds shall be exempt from federal income taxation, and (2) to whatever extent shall be permissible (without jeopardizing such tax exemption or the security of such owners) to eliminate or reduce any restrictions concerning the investment of the proceeds of these Current Bonds, or the application of such proceeds or of the revenues of the System.

The purchasers of these Current Bonds are deemed to have relied fully upon these covenants and undertakings on the part of the City as part of the consideration for the purchase of the Current Bonds. To the extent that the City obtains an opinion of Bond Counsel to the effect that non-compliance with any of the covenants contained in this Bond Ordinance or referred to in this Bond Ordinance would not subject interest on the Current Bonds to federal income taxes or Kentucky income taxes, the City shall not be required to comply with such covenants or requirements.

This Bond Ordinance is enacted in contemplation that Bond Counsel will render an opinion as to exemption of principal of the Current Bonds from Kentucky ad valorem taxation and as to exemption of interest on the Current Bonds from federal and Kentucky income taxation, based on the assumption by Bond Counsel that the City complies with covenants made by the City with respect to compliance with the provisions of the Code, and based on the assumption of compliance by the City with requirements as to any required rebate (and reports with reference thereto) to the United States of America of certain investment earnings on the proceeds of the Current Bonds.

Section 26. Insurance. *(a) Fire and Extended Coverage.* If and to the extent that the System includes structures above ground level, BGMU shall, upon receipt of the proceeds of the sale of the Current Bonds, if such insurance is not already in force, procure fire and extended coverage insurance on the insurable portion of all of the facilities of the System, of a kind and in such amounts as would ordinarily be carried by private companies or public bodies engaged in operating a similar utility.

The foregoing fire and extended coverage insurance shall be maintained so long as any of the Bonds are outstanding and shall be in amounts sufficient to provide for not less than full recovery whenever a loss from perils insured against does not exceed eighty percent (80%) of the full insurable value of the damaged facility.

In the event of any damage to or destruction of any part of the System, BGMU shall promptly arrange for the application of the insurance proceeds for the repair or reconstruction of the damaged or destroyed portion thereof.

(b) Liability Insurance on Facilities. So long as any of the Bonds are outstanding, BGMU shall, procure and maintain, public liability insurance relating to the operation of the facilities of the System, with limits of not less than \$200,000 for one person and \$1,000,000 for more than one person involved in one accident, to protect the City and BGMU from claims for bodily injury and/or death; and not less than \$200,000 from claims for damage to property of others which may arise from the BGMU's operations of the System and any other facilities constituting a portion of the System.

(c) Vehicle Liability Insurance. If and to the extent that BGMU or the City owns or operates vehicles in the operation of the System, upon receipt of the proceeds of the Bonds, BGMU shall, if such insurance is not already in force, procure and maintain, so long as any of the Bonds are outstanding, vehicular public liability insurance with limits of not less than \$200,000 for one person and \$1,000,000 for more than one person involved in one accident, to protect BGMU and the City from claims for bodily injury and/or death, and not less than \$200,000 against claims for damage to property of others which may arise from the operation of such vehicles by BGMU or the City.

Section 27. Additional Covenants Respecting the System. That so long as any of the Bonds are outstanding as follows:

(a) BGMU will at all times own and operate the System, to the fullest extent permitted by law as a public project on a revenue-producing basis, subject to the provisions of Section 24 hereof.

(b) BGMU will at all times maintain the System in good condition through application of revenues accumulated and set aside for operation and maintenance as herein provided, and will make renewals and replacements, as the same may be required, through application of revenues accumulated and set aside into the Depreciation Fund.

(c) To the extent provided by law, BGMU will not permit any competing water or sewer system, public or private, to sell or serve water or sewer services to customers presently served, or served at any time in the future, by the System.

(d) BGMU will perform all duties with reference to the System required by the Statutes and Constitution of Kentucky and will not sell, lease, mortgage or in any manner dispose of the System, or any part thereof except as authorized herein.

(e) Pursuant to KRS 96.934 and other applicable legal provisions, the City will cause rates and charges for services rendered by the sewer system portion of the System to be billed simultaneously to the customers of the water system portion of the System, and will provide that water services will be discontinued to any premises where there is a failure to pay any part of the water charges and/or sewer charges so billed, including such penalties and fees for disconnection and/or reconnection as may be prescribed from time to time, to the greatest extent permitted by law.

(f) To the extent provided by law, BGMU will require that all dwellings and buildings within the areas presently served, or served at any time in the future, by the System be connected to the water distribution facilities and the sewer collection system operated hereby.

(g) It is hereby represented that the Governing Body of the City has heretofore enacted an ordinance requiring that all sources of flowable sewage be connected to the sewer system portion of the System if and when connection is available, declaring that all unconnected sources of flowable sewage, where sewers are or may hereafter be made available, shall constitute a public nuisance which shall be abated, and establishing penalties and effective dates; and it is hereby covenanted that no changes which may adversely affect the rights of the owners of the Bonds shall be made in the requirements specified in said ordinance so long as any of the Bonds are outstanding.

Section 28. Bowling Green Municipal Utilities Board; Existence and Continuance Contractual with Bondholders. It is hereby represented and declared that the management, control and operation of the System have been vested in the Bowling Green Municipal Utilities Board; and it is hereby covenanted and agreed that so long as any of the Bonds remain outstanding, the management, control and operation of the System will continue to be vested in and carried out by said Bowling Green Municipal Utilities Board. The City hereby designates and delegates the Bowling Green

Municipal Utilities Board to undertake and carry out its duties under this Ordinance and to act as its agent.

Section 29. Signatures of Officers. If any of the officers whose signatures or facsimile signatures appear on the Current Bonds cease to be such officers before delivery of the Current Bonds, such signatures shall nevertheless be valid for all purposes the same as if said officers had remained in office until delivery, as provided in KRS 58.040 and KRS 61.390.

Section 30. Event of Default; Rights of Bondowners Upon Occurrence of Event of Default. The following items shall constitute an "Event of Default" on the part of the City:

(a) The failure to pay principal on the Bonds when due and payable, either at maturity or by proceedings for redemption.

(b) The failure to pay any installment of interest on the Bonds when the same shall become due and payable.

(c) The failure of the City or BGMU to fulfill any of its obligations pursuant to this Ordinance and to cure any such failure within 30 days after receipt of written notice of such failure.

(d) The failure to promptly repair, replace or reconstruct essential facilities of the System after any major damage and/or destruction thereof.

Upon the occurrence of an Event of Default, any Owner of the Bonds may enforce and compel the performance of all duties and obligations of the City or BGMU as set forth herein. Upon the occurrence of an Event of Default, then, upon the filing of suit by any owner of said Bonds, any court having jurisdiction of the action may appoint a receiver to administer the System on behalf of the City and the Bondowners, as their interests may appear, with power to charge and collect rates sufficient to provide for the payment of the principal of and interest on the Bonds, and for the payment of operation and maintenance expenses of the System, and to provide and apply the income and revenues in conformity with this Ordinance and with the laws of the Commonwealth of Kentucky.

In addition to and apart from the foregoing, upon the occurrence of an Event of Default, the owner of any of the Bonds may require the City by demand, court order, injunction, or otherwise, to raise all applicable rates charged for services of the System a reasonable amount, consistent with the requirements of this Ordinance.

Section 31. Provisions with Respect to any Bond Insurance Policy and Reserve Fund Insurance Policy. If a Bond Insurance Policy or Reserve Fund Insurance Policy is to be provided for any of the Outstanding Bonds, the City hereby authorizes the Mayor and/or BGMU to enter into an agreement with the Bond Insurer relating to the terms and conditions for the issuance of the Bond Insurance Policy and/or the Reserve Fund Insurance Policy.

Section 32. Appointment and Duties of Bond Registrar and Paying Agent. U.S. Bank National Bank, Louisville, Kentucky, is hereby designated as the Bond Registrar and Paying Agent

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and the City and/or BGMU are hereby authorized to enter into the Paying Agency Agreement for the purpose of setting forth the duties and responsibilities of the Paying Agent.

Section 33. Supplemental Ordinances Not Requiring Consent of Bondowners. The City may, without the consent of, or notice to, any of the Owners of the Current Bonds, enact one or more Supplemental Ordinances as shall not be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Ordinance;
- (b) to grant to or confer upon the Bond Registrar for the benefit of the Bondowners any additional rights, remedies, powers, or authorities that should lawfully be granted to or conferred upon the Bondowners or the Bond Registrar or either of them;
- (c) to subject to the lien and pledge of this Ordinance additional revenues, properties, or collateral which may legally be subjected;
- (d) to add to the conditions, limitations and restrictions on the issuance of Current Bonds, other conditions, limitations and restrictions thereafter to be observed;
- (e) to add to the covenants and agreements of the City in this Ordinance, other covenants and agreements thereafter to be incurred by the City or to surrender any right or power herein reserved to or conferred upon the City; and/or
- (f) to effect the issuance of additional Parity Bonds.

Section 34. Supplemental Ordinances Requiring Consent of Bondowners. Exclusive of Supplemental Ordinances covered by Section 33 hereof and subject to the terms and conditions contained in this Section and not otherwise, the owners of not less than two-thirds in aggregate principal amount of the Current Bonds shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the enactment by the City of such other Supplemental Ordinance as shall be deemed necessary and desirable by the City for the purpose of modifying, altering, amending, adding to, or rescinding, in any particular, any terms or provisions contained in this Ordinance or in any Supplemental Ordinance; provided, however, that nothing in this Section shall permit, or be construed without consent of the owner of any Current Bonds then outstanding as permitting (a) an extension of the maturity date on which the principal of, premium, if any, or interest on such Current Bond is or is to become, due and payable, (b) a reduction in the principal amount of such Current Bond, the rate of interest thereon, or any redemption premium, (c) a privilege or priority of such Current Bond or Current Bonds over any other Current Bond, (d) reduction in the principal amount of the Current Bonds required for consent to such Supplemental Ordinance, or (e) the creation of a lien upon or pledge of Gross Revenues from, or in connection with the System, ranking prior to or (except in connection with the issuance of Parity Bonds pursuant to this Ordinance) on a parity with the lien or pledge by this Ordinance.

No Supplemental Ordinance shall be enacted for any of the purposes of this Section without notice being furnished by the Bond Registrar to each Bondowner in the same manner as the furnishing

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of a notice of Redemption of Current Bonds, and no such Supplemental Ordinance shall be effective until at least 60 days subsequent to the furnishing of such notice.

Section 35. Annual Disclosure Requirements. In accordance with the requirements of the Rule, the City agrees to enter into a Continuing Disclosure Agreement.

Financial information regarding the System can be obtained from the Board Chief Financial Officer at 801 Center Street, Bowling Green, Kentucky 42102.

The obligations of the City described in the Continuing Disclosure Agreement will remain in effect only for such period that (1) the Bonds are outstanding in accordance with their terms and (2) that the City remains an obligated person with respect to the Bonds within the meaning of the Rule. The City reserves the right to terminate its obligation to provide notices of material events, as set forth above, if and when the City no longer remains an obligated person with respect to the Bonds within the meaning of the Rule. The City acknowledges that its undertaking pursuant to the Rule described under this Section is intended to be for the benefit of the Bondowners (including holders of beneficial interests in the Bonds).

In the event of a failure of the City to comply with any provision of this Section, any Bondowner may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Section. A default under this Section shall not be deemed an Event of Default under the Ordinance, and the sole remedy under this Section, in the event of any failure of the City to comply with this Section, shall be an action to compel performance.

Section 36. Provisions in Conflict Repealed. All ordinances, resolutions and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 37. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 38. Effective Date of Ordinance. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on May 21, 2019, and given final reading on June 4, 2019, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

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ADOPTED: June 4, 2019

APPROVED: B. M. Wilkey
Mayor, Chairman of Board of Commissioners

ATTEST: Ashley Jackson
City Clerk

SPONSORED BY: Jeffery B. Meisel, City Manager, 05/15/2019, 12:15 p.m.

CERTIFICATE OF CITY CLERK

I, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of the City of Bowling Green, Kentucky, that the foregoing Ordinance is a true and correct copy of an Ordinance authorizing the issuance of the City of Bowling Green, Kentucky Water and Sewer Revenue Bonds, Series 2019, that said Ordinance was introduced and given first reading by the Board of Commissioners of said City on May 21, 2019, and that it was placed and remained on file in my office for public inspection until June 4, 2019, on which date it was given its second reading and final enactment by said Board of Commissioners, that said meetings were duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820, and 61.823, that a quorum was present at each of said meetings, that said Ordinance has been ordered to be published by title and summary contained in a Notice of Enactment and Summary of Ordinance, and that said Ordinance has not been modified, amended, revoked, or repealed, and that same is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature as City Clerk this 4th day of June, 2019.



City Clerk

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ACCEPTANCE BY BOWLING GREEN MUNICIPAL UTILITIES BOARD

The Bowling Green Municipal Utilities Board ("BGMU") hereby agrees to the provisions of the foregoing Ordinance to the extent there are contained therein provisions as to management, control and operation of the System and its duty to undertake and carry out the responsibilities and duties of the City of Bowling Green, Kentucky (the "City") under this Ordinance and to act as the City's agent thereunder.

Dated: June 4, 2019

BOWLING GREEN MUNICIPAL UTILITIES
BOARD

General Manager

EXHIBIT A

**UNITED STATES OF AMERICA
COMMONWEALTH OF KENTUCKY
COUNTY OF WARREN
CITY OF BOWLING GREEN
WATER AND SEWER REVENUE BOND
SERIES 2019**

No. R- _____

\$ _____

Interest Rate

Maturity Date

Original
Issue Date

CUSIP #

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL MEN BY THESE PRESENTS: That the City of Bowling Green (the "City") in the Commonwealth of Kentucky, for value received, hereby promises to pay, solely from the special fund hereinafter identified, to the Registered Owner set forth above, or his, her or its registered assigns, as hereinafter identified, upon presentation and surrender of this Bond, the Principal Amount set forth above, on the Maturity Date specified above, and to pay interest on said sum at the per annum Interest Rate specified above, on December 1, 2019 and semiannually thereafter from the Original Issue Date or from the most recent Interest Payment Date preceding the date of or on which this Bond was authenticated, unless this Bond is authenticated on an Interest Payment Date to which interest has been paid, in which event it shall bear interest from that date, on June 1 and December 1 of each year ("Interest Payment Dates"), unless redeemed prior thereto as hereinafter provided. The principal of and premium, if any, on this Bond are payable upon surrender of this Bond, at maturity or at earlier redemption prior to maturity, in lawful money of the United States of America at the corporate trust office of U.S. Bank National Association, Louisville, Kentucky, (the "Paying Agent" and the "Bond Registrar"). Interest due on this Bond shall be paid by check or draft mailed by regular U.S. mail postmarked no later than the due date thereof by the Paying Agent to the registered owner hereof at the address shown as of the 15th day of the month preceding each Interest Payment Date on the Bond Register kept by the Bond Registrar.

This Series 2019 Bond is part of a duly authorized issue in the total principal amount of _____ Thousand Dollars (\$ _____) of City of Bowling Green, Kentucky Water and Sewer Revenue Bonds, Series 2019 (the "Series 2019 Bonds"), authorized to be issued by the City pursuant to an Ordinance duly enacted (the "Bond Ordinance") under and in full compliance with the Constitution and Statutes of the Commonwealth of Kentucky, and more specifically Sections 82.082, 58.010 through 58.140 and 58.440 of the Kentucky Revised Statutes, for the purpose of purpose of providing funds for the acquisition and construction of additions, expansions and improvements to its water treatment plant and the construction and installation of a sewer force main from the southern end of the sewer system to the Preston Avenue wastewater treatment plant

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(collectively the "Project"), which shall be a part of the City's existing combined and consolidated water and sewerage system (the "System").

The Series 2019 Bonds are issued on a parity as to security and source of payment with the outstanding (i) City of Bowling Green Water and Sewer Revenue Bonds, Series 2011, dated December 22, 2011; (ii) City of Bowling Green Water and Sewer Revenue Bonds, Series 2012, dated January 10, 2012; and (iii) City of Bowling Green Water and Sewer Refunding Revenue Bonds, Series 2013, dated December 19, 2013 (collectively the "Prior Bonds").

The Series 2019 Bonds, the Prior Bonds and any additional parity bonds issued pursuant to the parity provisions of the Bond Ordinance (the "Parity Bonds") [hereinafter the Series 2019 Bonds, the Prior Bonds and any Parity Bonds may be collectively referred to as the "Bonds"] do not constitute an indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, but are payable as to both principal and interest solely out of the gross revenues of the System, a sufficient portion of which Gross Revenues (as defined in the Bond Ordinance), to pay the principal of and interest on all of these Bonds, as and when the same become due and payable, shall be set aside and deposited into the "City of Bowling Green Water and Sewer Sinking Fund" (the "Sinking Fund").

It is provided in and by the Bond Ordinance that additional bonds ranking on a parity with the Bonds may be issued and outstanding upon the conditions and restrictions provided in the Bond Ordinance; and the Bonds, together with such additional bonds ranking on a parity therewith as may be hereafter issued and outstanding from time to time under the parity conditions and restrictions of the Bond Ordinance, are and will continue to be payable from and secured by a first pledge of the Gross Revenues to be derived from the operation of the System.

The City covenants that so long as any of the Bonds are outstanding, the System will be continuously owned and operated as a single, combined and consolidated, revenue-producing undertaking, and that the City shall fix, charge and adjust from time to time as needed, such rates for the services and facilities of the System so that the income and revenues therefrom will be sufficient to pay all of the Bonds, and the interest thereon, as the same become due, to provide for the depreciation thereof, and to pay the cost of operation and maintenance of the System.

The Bonds are issuable as fully registered bonds in the denomination of \$5,000 and any authorized multiple thereof within a single maturity. This Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing at the main office of the Bond Registrar, but only in the manner and subject to the limitations provided in the Bond Ordinance, and upon surrender and cancellation of this Bond, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his authorized representative. Upon such transfer being made, a new fully registered Bond or Bonds of the same series and the same maturity of authorized denomination, for the same aggregate principal amount, will be issued to the transferee in exchange for this Bond.

The City and the Bond Registrar may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of principal hereof, premium, if any, and interest due hereon and for all other purposes, and neither the City nor the Bond Registrar shall be affected by any notice to the contrary.

The Series 2019 Bonds maturing on and prior to June 1, 2026, shall not be subject to optional redemption prior to maturity. The Series 2019 Bonds maturing on and after June 1, 2027, are subject to optional redemption prior to maturity, in whole or in part, on any date on and after June 1, 2026, and in any order of maturities (less than all of a single maturity to be selected by lot), at a redemption price equal to 100% of the principal amount redeemed on the redemption date.

In the event that a Bond subject to redemption is in a denomination larger than \$5,000, a portion of such Bond may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof, if the Bond is one of the maturities or amounts or part of the maturities or amounts called for redemption. Upon surrender of any Bond for redemption in part, the Bond Registrar shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered.

The Bond Registrar shall give notice of redemption by first class mail, postage prepaid, mailed not less than 25 nor more than 60 days prior to the redemption date to each Holder of Bonds to be redeemed or tendered at the address of such Holder appearing in the Bond Register, and also to such other Persons as the City or BGMU shall deem appropriate.

Neither the failure of any Holder to receive notice mailed as provided herein nor any defect in notice so mailed shall affect the validity of the proceedings for redemption in accordance with this Bond Ordinance.

All notices of redemption shall state:

- (i) the redemption date;
- (ii) the redemption price (including premium, if any);
- (iii) the name of the Bonds to be redeemed, the principal amount of Bonds to be redeemed, and, if less than all Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed;
- (iv) that on the redemption date, the redemption price, as appropriate, of each such Bond will become due and payable, that interest on each such Bond shall cease to accrue on and after such date, and that each such Bond will be deemed to have been redeemed;
- (v) the place or places where such Bonds must be surrendered for payment of the redemption price thereof; and
- (vi) such additional information as the City, BGMU or the Paying Agent shall deem appropriate.

In the case for an optional redemption pursuant to the Bond Ordinance, the notice of redemption may state (i) that it is conditioned upon the deposit of moneys, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent no later than the redemption date or (ii) that the City retains the right to rescind such notice on or prior to the scheduled redemption date (in either case, a "Conditional Redemption"), and such notice and optional or extraordinary redemption

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shall be of no effect if such moneys are not so deposited or if the notice is rescinded in writing, and disseminated to each Holder of the Bonds in accordance with the procedures set forth in this Section, no later than 7 days prior to the redemption date.

Notice of redemption having been given as aforesaid, the Bonds so to be redeemed shall become due and payable on the redemption date at the redemption price specified, and on and after such date (unless the City shall default in the payment of the redemption price) such Bonds shall cease to bear interest. Upon surrender of any such Bond for redemption in accordance with such notice, such Bond shall be paid at the redemption price thereof.

All of said Bonds as to which the City reserves and exercises the right of redemption and as to which notice as aforesaid shall have been given, and for the retirement of which, upon the terms aforesaid, funds are duly provided, will cease to bear interest on the redemption date.

The required notice shall be deemed to have been given upon the City furnishing notice of redemption to the Bond Registrar and upon the Bond Registrar acknowledging that it has instructions to send such notice and that it will do so at the proper time, even if the time for furnishing such notice has not yet arrived.

It is hereby certified, recited, and declared that all acts, conditions and things required to exist, happen, and be performed precedent to and in the issuance of the Bonds in order to make them legal and enforceable according to their import, have existed, have happened and have been performed, in due time, form and manner as required by law, that the amount of this Bond, together with all other obligations of said City, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky, and that a sufficient portion of the Gross Revenues of the System has been pledged to and will be set aside for the prompt payment of the principal of and interest on this Bond, all of the Bonds, and all other bonds ranking on a parity therewith, including those which may be issued hereafter.

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IN WITNESS WHEREOF, said City of Bowling Green, in the Commonwealth of Kentucky, has caused this Bond to be executed on its behalf with the duly authorized or reproduced facsimile signature of the Mayor of said City, and the reproduced facsimile of its Corporate Seal to be imprinted hereon and attested by the reproduced facsimile signature of its City Clerk; provided, however, that this Bond shall not be valid or become obligatory for any purpose, or be entitled to any security or benefit under the Bond Ordinance pursuant to which it was authorized until the Authentication Certificate of Bond Registrar printed hereon shall have been executed by the manual signature of a duly authorized representative of the Bond Registrar.

CITY OF BOWLING GREEN, KENTUCKY

By: Brian Williams
Mayor

Attest:

Ashley Jackson
City Clerk

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(FORM OF AUTHENTICATION CERTIFICATE OF BOND REGISTRAR)

AUTHENTICATION CERTIFICATE OF BOND REGISTRAR

This is to certify that this Bond is one of the Bonds referred to in the within Bond and in the Bond Ordinance authorizing same.

U.S. BANK NATIONAL ASSOCIATION,
Louisville, Kentucky

By: _____
Authorized Officer

The authentication date of this Bond is: _____

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[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto (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 books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature

In the presence of: _____

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