
CITY OF MILWAUKEE, WISCONSIN

SEWERAGE SYSTEM REVENUE BONDS
BOND RESOLUTION

FILE NO: 991863

ADOPTED _____

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS; CONTRACT AND AUTHORITY

Section 1.01. *Definitions of Special Terms* 3
Section 1.02. *Definitions of General Terms* 12
Section 1.03. *Authority for the Resolution* 13
Section 1.04. *Resolution and Bonds Constitute a Contract* 13

ARTICLE II

COMPUTATIONS; CERTIFICATES AND OPINIONS; EVIDENCE
OF ACTION BY THE CITY

Section 2.01. *Computations* 14
Section 2.02. *Certificates and Opinions* 14
Section 2.03. *Evidence of Action by the City* 14

ARTICLE III

AUTHORIZATION AND ISSUANCE OF
SEWERAGE SYSTEM REVENUE BONDS

Section 3.01. *Authorization of Bonds* 15
Section 3.02. *Pledge of Revenues, Funds and Other Moneys* 15
Section 3.03. *Series Resolutions* 17
Section 3.04. *Conditions for the Issuance of Bonds Other Than Refunding
Bonds Hereunder* 19
Section 3.05. *Refunding Bonds* 20
Section 3.06. *Bond Anticipation Notes* 21
Section 3.07. *Subordinate Obligations* 21
Section 3.08. *Separate Utility Systems* 22
Section 3.09. *Special Provisions for Certain Bonds* 22
Section 3.10. *Support Facilities and Interest Rate Exchange Agreements* 22
Section 3.11. *Service to the City* 23

ARTICLE IV

GENERAL TERMS AND PROVISIONS

Section 4.01. *Terms of Bonds* 25

Section 4.02.	<i>Execution of Bonds</i>	25
Section 4.03.	<i>Bonds Are Negotiable Instruments</i>	26
Section 4.04.	<i>Bond Registry</i>	26
Section 4.05.	<i>Transfer of Bonds</i>	26
Section 4.06.	<i>Exchange of Bonds</i>	27
Section 4.07.	<i>Mutilated, Lost, Stolen or Destroyed Bonds</i>	28
Section 4.08.	<i>Disposition and Destruction of Bonds</i>	29
Section 4.09.	<i>Temporary Bonds</i>	29
Section 4.10.	<i>CUSIP Identification Numbers</i>	29
Section 4.11.	<i>Book-Entry Bonds</i>	30

ARTICLE V

REDEMPTION OF BONDS

Section 5.01.	<i>Redemption of Bonds</i>	33
Section 5.02.	<i>Selection of Bonds for Redemption</i>	33
Section 5.03.	<i>Notice of Redemption</i>	33
Section 5.04.	<i>Partial Redemption of Bonds</i>	34
Section 5.05.	<i>Effect of Redemption</i>	35
Section 5.06.	<i>Cancellation of Redeemed Bonds</i>	35

ARTICLE VI

FUNDS AND ACCOUNTS; INVESTMENT OF MONEYS

Section 6.01.	<i>Establishment of Funds and Accounts</i>	36
Section 6.02.	<i>Revenue Fund</i>	36
Section 6.03.	<i>Special Redemption Fund; Reserve Account.</i>	38
Section 6.04.	<i>Subordinate Obligation Fund</i>	40
Section 6.05.	<i>Rebate Fund</i>	40
Section 6.06.	<i>Surplus Fund</i>	40
Section 6.07.	<i>Construction Fund</i>	41
Section 6.08.	<i>Operation and Maintenance Fund</i>	42
Section 6.09.	<i>Investment of Funds</i>	42
Section 6.10.	<i>Valuation and Sale of Investment Securities</i>	43
Section 6.11.	<i>Depositaries</i>	44

ARTICLE VII

CONCERNING THE PAYING AGENTS AND DEPOSITARIES

Section 7.01.	<i>Appointment of Depositaries; Acceptance of Duties</i>	45
Section 7.02.	<i>Statement by Paying Agents and Depositaries Hereunder of Funds</i>	

	<i>and Accounts and Other Matters</i>	45
Section 7.03.	<i>Paying Agents or Depositories Hereunder Not Liable for Acts of the City or Other Paying Agents or Depositories; No Representations by Paying Agent or Depository</i>	45
Section 7.04.	<i>Paying Agents and Depositories May Buy, Hold, Sell or Deal in Bonds and Other Indebtedness of the City</i>	46
Section 7.05.	<i>Reimbursement of Paying Agents and Depositories for Fees, Expenses and Charges</i>	46

ARTICLE VIII

COVENANTS TO SECURE BONDS

Section 8.01.	<i>Maintenance of the Properties of the Sewerage System; Keeping the Sewerage System in Good Repair</i>	47
Section 8.02.	<i>Rates and Charges</i>	47
Section 8.03.	<i>Sale, Lease or Other Disposition of Properties of the Sewerage System</i>	48
Section 8.04.	<i>Insurance</i>	49
Section 8.05.	<i>Consulting Engineer</i>	50
Section 8.06.	<i>Books of Account; Annual Audit</i>	50
Section 8.07.	<i>Punctual Payment of Bonds</i>	50
Section 8.08.	<i>Payment of Taxes and Other Claims</i>	50
Section 8.09.	<i>Extension of Payment of Bonds</i>	51
Section 8.10.	<i>Sound Improvements and Extensions</i>	51
Section 8.11.	<i>Further Assurances</i>	51
Section 8.12.	<i>Protection of Security</i>	51
Section 8.13.	<i>Exclusion of Interest on Tax-exempt Bonds for Federal Income Taxation Purposes</i>	52
Section 8.14.	<i>Annual Budget</i>	52

ARTICLE IX

DEFAULTS; REMEDIES; BONDHOLDERS' COMMITTEE

Section 9.01.	<i>Events of Default</i>	54
Section 9.02.	<i>Notice to Bondholders of Event of Default</i>	55
Section 9.03.	<i>Acceleration of Bonds</i>	55
Section 9.04.	<i>Inspection of Books and Records; the City to Account as Trustee for Express Trust</i>	55
Section 9.05.	<i>Application of Revenues in an Event of Default</i>	56
Section 9.06.	<i>Suits at Law or Equity and Mandamus; Appointment of a Receiver</i>	57
Section 9.07.	<i>Bondholders' Committee</i>	58
Section 9.08.	<i>Bondholders May Direct Proceedings</i>	58
Section 9.09.	<i>Remedies Not Exclusive; Waivers of Default; Abandonment of Proceedings; Adverse Determination</i>	58

ARTICLE X

AMENDING AND SUPPLEMENTING OF RESOLUTION

Section 10.01. *Amending and Supplementing of Resolution Without Consent of Holders of Bonds* 60
Section 10.02. *Amendment of Resolution With Consent of Holders of Bonds* 61
Section 10.03. *Notation Upon Bonds; New Bonds Issued Upon Amendments* 62
Section 10.04. *Effectiveness of Supplemental Resolution* 63
Section 10.05. *Supplemental Resolution Affecting Comptroller and Fiscal Services Hereunder and Paying Agents* 63

ARTICLE XI

EXECUTION OF INSTRUMENTS BY HOLDERS OF BONDS;
OWNERSHIP OF BONDS; MEETINGS OF HOLDERS OF BONDS;
EXCLUSION OF BONDS OWNED BY THE CITY

Section 11.01. *Execution of Requests, Directions and Consents and Other Instruments and Proof of Same; Ownership of Bonds and Proof of Same* 64
Section 11.02. *Meetings of Holders of Bonds* 65
Section 11.03. *Exclusion of Bonds Held by or for the City and of Bonds No Longer Deemed Outstanding Hereunder* 67

ARTICLE XII

DEFEASANCE; MONEYS HELD FOR PAYMENT OF DEFEASED BONDS

Section 12.01. *Discharge of Liens and Pledges; Bonds No Longer Outstanding and Deemed to be Paid Hereunder* 68
Section 12.02. *Bonds Not Presented for Payment When Due; Moneys Held for the Bonds After Due Date of Bonds* 69

ARTICLE XIII

MISCELLANEOUS

Section 13.01. *Benefits of Resolution Limited to the City and Bondholders* 71
Section 13.02. *Resolution Binding Upon Successors or Assigns of the City* 71
Section 13.03. *No Personal Liability* 71
Section 13.04. *Notice to Bondholders* 71
Section 13.05. *Waiver of Notice* 71
Section 13.06. *Official Publications* 71
Section 13.07. *Effect of Saturdays, Sundays and Legal Holidays* 72
Section 13.08. *Partial Invalidity* 72
Section 13.09. *Law and Place of Enforcement of the Resolution* 72

Section 13.10. *Effect of Article and Section Headings and Table of Contents* 73
Section 13.11. *Repeal of Inconsistent Resolution* 73
Section 13.12. *Effectiveness of the Resolution* 73

RESOLUTION

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF REVENUE BONDS OF THE CITY OF MILWAUKEE, WISCONSIN FOR THE PURPOSES OF THE SEWERAGE SYSTEM OF THE CITY; COVENANTING AS TO ESTABLISHMENT, MAINTENANCE, REVISION AND COLLECTION OF CHARGES AND RATES FOR THE USE AND SERVICES OF SAID SEWERAGE SYSTEM AND THE COLLECTION AND DISBURSEMENT OF THE REVENUES DERIVED THEREFROM; PLEDGING THE NET REVENUES DERIVED FROM SAID SEWERAGE SYSTEM TO THE PAYMENT OF THE PRINCIPAL OF AND PREMIUM, IF ANY, AND INTEREST ON SAID BONDS AS THE SAME FALL DUE; CREATING AND ESTABLISHING CERTAIN FUNDS AND ACCOUNTS; SETTING FORTH THE LIMITATIONS OR CONDITIONS UPON THE ISSUANCE BY THE CITY OF ADDITIONAL BONDS PAYABLE FROM THE AFORESAID REVENUES; AND MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING.

WHEREAS, the City of Milwaukee, Wisconsin (the "City") has the full and complete power and authority under and pursuant to Section 66.0821, Wisconsin Statutes, to construct, acquire or lease, extend or improve any plant and equipment within or without its corporate limits for the collection, transportation, pumping, storage, treatment and disposal of sewerage, including the lateral, main and interceptor sewers necessary in connection therewith;

WHEREAS, the City has full and complete power and authority under and pursuant to the Constitution and statutes of the State of Wisconsin particularly, Section 66.0621, Wisconsin Statutes, to issue revenue bonds to finance any revenue producing facility which includes the City's Sewerage System (hereinafter defined), accessories, equipment and other property, including land;

WHEREAS, the Common Council of the City hereby finds and determines that it is necessary and advisable and in the best interest of the City that the City provide for the issuance from time to time of revenue bonds payable from the revenues of the Sewerage System of the City for the purposes authorized by said Section 66.0821, Wisconsin Statutes referred to above.

WHEREAS, the Common Council of the City hereby finds and determines that it is in the best interest of the City to adopt this Resolution authorizing an issue of sewerage system revenue bonds to be issued from time to time in series, and making certain pledges, agreements and covenants with respect to said bonds and the operation and maintenance of the Sewerage System; **NOW, THEREFORE BE IT**

RESOLVED, BY THE COMMON COUNCIL OF THE CITY OF MILWAUKEE, WISCONSIN:

ARTICLE I

DEFINITIONS; CONTRACT AND AUTHORITY

Section 1.01. Definitions of Special Terms. Unless the context shall clearly indicate some other meaning or may otherwise require, the terms defined in this Section shall, for all purposes of this resolution and of any resolution or other instrument amendatory hereof or supplemental hereto and of any certificate, opinion, instrument or document herein or therein mentioned, have the meanings herein specified, with the following definitions to be equally applicable to both the singular and plural forms of any terms herein defined and *vice versa*:

"Accrued Debt Service" means, as of any date of computation and with respect to the Bonds of any Series, an amount equal to the sum of: (i) interest on such Bonds accrued and unpaid and to accrue to the end of the then current calendar month, and (ii) principal, Sinking Fund Installment and redemption premium which are due and unpaid for such Bonds and that portion of the principal, unsatisfied balance of any Sinking Fund Installment (as determined in accordance with **Section 6.03**) and redemption premium for such Bonds next due which would have accrued to the end of such calendar month if deemed to accrue monthly from a date one year prior to its due date.

"Act" means Section 66.0621, Wisconsin Statutes, and all laws amendatory or supplemental thereto.

"Additional Bonds Requirement" means the requirement set forth in clause **(4) of subsection (A) of Section 3.04** for issuing a Series of Bonds.

"Aggregate Debt Service" means, for any period and as of any date of computation, the sum of the amounts of Debt Service for such period with respect to all Series of Bonds.

"Annual Budget" means the budget adopted annually by the Common Council as described in **Section 8.14** hereof.

"Assumed Long-Term Fixed Rate" means, with respect to Variable Rate Bonds, (i) a numerical rate of interest that such Bonds would have borne if issued as Fixed Rate Bonds with the same maturity and taking into account Sinking Fund Installments; and (ii) if the City has in connection with such Variable Rate Bonds entered into an Interest Rate Exchange Agreement which provides that the City is to pay to another person an amount determined based upon a fixed rate of interest on a notional amount and which requires the Counterparty to pay to the City an amount equal to the amount by which interest on the notional amount stated therein at the rate borne by such Variable Rate Bonds exceeds the interest payable on such notional amount at a rate stated therein, the fixed rate or other rate of interest set forth in or determined in accordance with such agreement. With respect to the Bonds described in clause (i) of the preceding sentence, an Authorized Officer shall certify or cause the

Remarketing Agent for such Series of Variable Rate Bonds or other qualified person to certify such Assumed Long-Term Fixed Rate on the issue date of such Bonds, taking into account such market factors as such Authorized Officer or such Remarketing Agent or such qualified person shall deem necessary or appropriate.

"Authorized Newspapers" means *The Bond Buyer*, *The Wall Street Journal* or any other financial newspaper of national circulation printed in the English language and customarily published on each Business Day, as designated by an Authorized Officer.

"Authorized Officer" means the Comptroller of the City or any other officer of the City designated by resolution of the Common Council.

"Bonds" means Sewerage System Revenue Bonds issued from time to time pursuant to and under the authority of **Section 3.01**.

"Bond Anticipation Notes" means obligations issued pursuant to **Section 3.06**.

"Bond Counsel" means an attorney or a firm of attorneys of nationally recognized standing in the field of law relating to municipal bonds selected by the City.

"Bondholder," or **"Holder of a Bond"** or **"Holder"** means the registered owner of any Bond which at the time shall be registered other than to bearer, or such holders' duly authorized attorney in fact, representative or assigns.

"Bond Registry" means the books maintained by the Paying Agent for the Bonds of a Series pursuant to Section 4.04 for the registration of the Bonds of such Series and Bondholders.

"Book Entry Bond" means a Bond authorized to be issued to, and issued to and registered in the name of, a Depository directly or indirectly for the beneficial owners thereof.

"Business Day" means any day which is not a Saturday, Sunday or a legal holiday in the State, the State of New York or a day on which banking institutions chartered by the State, the State of New York or the United States of America are legally authorized to close in the City of Milwaukee, Wisconsin or The City of New York.

"City" means the City of Milwaukee, Wisconsin.

"City Charter" means the Charter of the City of Milwaukee, Wisconsin, as the same may be amended from time to time.

"Code" means the Internal Revenue Code of 1986, as amended, and any successor statutes thereto, and any applicable regulations issued thereunder.

"Common Council" mean the Common Council of the City.

"Construction Fund" means the Sewerage System Construction Fund described in **Section 6.01**.

"Consulting Engineer" means the engineer or engineering firm or corporation retained from time to time pursuant to **Section 8.05** to perform the acts and carry out the duties provided for such Consulting Engineer in the Resolution.

"Costs" means all costs of any Improvements and shall include, but shall not be limited to, all costs and estimated costs of the issuance of the Bonds, all architectural, engineering, inspection, financial and legal expenses, the cost of causing the payment of the principal or interest or both of the Bonds to be insured or guaranteed, the initial cost of any Support Facility or Interest Rate Exchange Agreement and interest which it is estimated will accrue during the construction of any Improvements and for six (6) months thereafter.

"Counterparty" means any person with which the City has entered into an Interest Rate Exchange Agreement.

"Debt Service" means, as of any particular date of computation, with respect to any Bonds and with respect to any period, the aggregate of the amounts to be paid or set aside in such period for the payment (or retirement) of the principal and Redemption Price (if any) of, and interest on, such Bonds; *provided, however*, that the term "Debt Service" shall not include interest on Bonds to the extent it is to be paid from amounts on credit to a Series Interest Account (as defined in **Section 6.07**), amounts on credit to the Special Redemption Fund or any other provisions made for the payment of interest.

"Depository" means any bank, national banking association or trust company selected and appointed by an Authorized Officer in accordance with **Section 7.01** as a depository of moneys and Investment Securities held under the provisions of the Resolution.

"Depository" means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, or its nominee, or any other person, firm, association or corporation designated in the Series Resolution authorizing a Series of Bonds to serve as securities depository for the Bonds of such Series.

"Exempt Obligation" means an obligation of any state or territory of the United States of America, any political subdivision of any state or territory of the United States of America, or any agency, authority, public benefit corporation or instrumentality of such state, territory or political subdivision, the interest on which is excludable from gross income under Section 103 of the Code, and which, at the time an investment therein is made or such obligation is deposited in any fund or account hereunder, is rated, without regard to qualification of such rating by symbols

such as "+" or "-" or numerical notation, "Aa" or better by Moody's and "AA" or better by S&P, or, if such obligation is not rated by Moody's or S&P, or, if such obligation is rated by neither Moody's nor S&P, has been assigned a comparable rating by another nationally recognized rating service, but in no event rated lower than the lowest rating on Outstanding Bonds assigned by Moody's or S&P.

"Fiscal Year" means the twelve month period established by the City or provided by law from time to time as its fiscal year, and which, as of the date of adoption of the Resolution, is the twelve month period commencing on January 1 of any year and ending on December 31 of the following year.

"Fixed Rate Bonds" means any Bonds issued bearing interest at a fixed rate per annum from their dated date or such other date to their maturity date.

"Government Obligation" means a direct obligation of the United States of America, or an obligation the principal of and interest on which are guaranteed by the United States of America; *provided*, that the full faith and credit of the United States of America is pledged to any such direct obligation or guarantee.

"Gross Proceeds" means, with respect to a Series of Tax-exempt Bonds the "gross proceeds" as defined in the Tax Certificate executed in connection with the issuance of such Series of Bonds, which definition shall be consistent with the provisions of the Code relating to the exclusion from gross income of holders of the interest on state and local government obligations for federal income taxation purposes.

"Improvements" means the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of the Sewerage System.

"Interest Rate Exchange Agreement" means an agreement entered into by the City relating to Bonds of one or more Series which provides that during the term of such agreement the City is to pay to the Counterparty an amount based on the interest accruing at a fixed or variable rate per annum on a notional amount and that the Counterparty is to pay to the City either (i) an amount based on the interest accruing on such notional amount at a fixed, capped or variable rate per annum, in each case computed according to a formula set forth in such agreement, or that one shall pay to the other any net amount due under such agreement, or (ii) an amount based on the amount by which the rate per annum at which such Bonds bear interest exceeds a rate per annum stated in such agreement.

"Investment Securities" means those securities which, from time to time, are legal for the investment of funds of the City.

"Maximum Interest Rate" means, with respect to any particular Variable Rate Bond, a numerical rate of interest per annum, which shall be set forth in the Series Resolution authorizing such Bond, that shall be the maximum rate per annum at which such Bond may bear interest at any time.

"Moody's" means Moody's Investors Service, Inc., its successors and their assigns, and, if such corporation shall for any reason no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized rating agency, if any, designated by the Comptroller of the City.

"Net Revenue Requirement" means with respect to any Fiscal Year or any period, an amount equal to the greater of: (i) the sum of (a) the Aggregate Debt Service in such Fiscal Year or such period and (b) the Required Deposits for such Fiscal Year or such period; or (ii) 1.20 times the Aggregate Debt Service in such Fiscal Year or such period plus 1.20 times the aggregate Support Facility Reimbursement Obligations outstanding as of the end of such Fiscal Year or such period.

"Net Revenues" means, with respect to any period, the Revenues during such period less amounts required to pay Operation and Maintenance Expenses.

"Operation and Maintenance Expenses" means the costs and expenses of operating and maintaining the Sewerage System, including, without limiting the generality of the foregoing: (i) all expenses includable in the operation and maintenance expense accounts of the City relating to the Sewerage System according to generally accepted accounting principles, exclusive of debt service, capital expenditures, depreciation and tax equivalents; and (ii) to the extent not included in the preceding clause (i) or paid from Bond proceeds or otherwise, the City's share of the costs and expenses of operating and maintaining any plants and properties jointly owned with others.

"Opinion of Counsel" means with respect to the City a written opinion of counsel selected by the Comptroller of the City who is not an employee of the City, and which, with respect to Federal income tax law and securities law relating to obligations issued by state and local governmental units, is Bond Counsel. Any Opinion of Counsel may be based (insofar as it relates to factual matters or information which is in the possession of the City) upon a Written Certificate of the City unless such counsel knows, or in the exercise of reasonable care should have known, that such Written Certificate is erroneous.

"Option Bond" means any Bond which by its terms may be tendered by and at the option of the Holder thereof for redemption by the City prior to the stated maturity thereof or for purchase thereof.

"Outstanding" or **"outstanding"** when used with reference to Bonds means, as of any date, Bonds theretofore or thereupon issued pursuant to the Resolution, except: (a) any Bonds canceled by a Paying Agent or paid at or prior to such date; (b) Bonds in lieu of or in substitution for which other Bonds shall have been delivered pursuant to the Resolution; (c) Bonds deemed to be no longer outstanding hereunder as provided in **Section 12.01**; and (d) Option Bonds tendered or deemed tendered in accordance with the provisions of the Series Resolution authorizing such Bonds which have been purchased by or on behalf of the City and in lieu of or substitution for which another Bond shall have been authenticated and delivered pursuant to **Article III**; *provided* that interest thereon shall have been paid through such tender or

purchase date thereof and the purchase price thereof shall have been paid or amounts are available for such payment as provided herein and in the Series Resolution authorizing such Bonds.

"Parity Support Facility Reimbursement Obligation" means the obligation of the City described in **subsection (C) of Section 3.10** to directly reimburse the Support Facility Provider of any Support Facility for amounts paid by such Support Facility Provider under such Support Facility or a Counterparty under an Interest Rate Exchange Agreement for amounts paid thereunder, on a parity with the obligation of the City to pay the Bonds, whether or not such obligation to reimburse is evidenced by a promissory note or other similar instrument.

"Paying Agent" means, as to Bonds of any particular Series, the Treasurer of the City or the bank or trust company designated for the payment of the principal and Redemption Price (if any) of, and interest on, the Bonds of such Series in the Series Resolution authorizing the issuance of such Series.

"Principal Office" means the office designated in writing to the Treasurer of the City by a Paying Agent, at which payment and registration of Bonds may be made.

"Rebatable Amount" means, with respect to a Series of Bonds, (i) the amount by which the earnings on the Gross Proceeds of such Series of Bonds exceeds the amount which would have been earned thereon if such Gross Proceeds were invested at a yield equal to the yield on such Series of Bonds, as such yield is determined in accordance with the Code; (ii) amounts earned on the investment of the excess described in clause (i); and (iii) any other amount required by the Code.

"Rebate Fund" means the Rebate Fund created in **Section 6.01**.

"Record Date" means, with respect to any Series of Bonds, (i) with respect to the payment of interest, the fifteenth (15th) day (whether or not a Business Day) of the month preceding an interest payment date; (ii) with respect to notice of redemption, the forty-fifth (45th) day (whether or not a Business Day) preceding the date of redemption; or (iii) such other day as may be provided in the Series Resolution authorizing the issuance of such Series.

"Redemption Price" means, with respect to any Bond, the principal amount thereof plus the applicable redemption premium, if any, payable upon redemption thereof pursuant to the Resolution or any Series Resolution.

"Refunded Municipal Obligations" means Exempt Obligations which are rated in the highest rating category by Moody's and S&P and provision for the payment of the principal of and interest on which shall have been made by an irrevocable deposit with a trustee or escrow agent of Government Obligations, which are held by a bank or trust company organized and existing under the laws of the United States of America or any state, the District of Columbia or possession thereof in the capacity as custodian, the maturing principal of and interest on which Government Obligations

shall be sufficient to pay, when due, the principal of and interest on such Exempt Obligations.

"Refunding Bonds" means Bonds issued pursuant to **Section 3.05** for refunding purposes.

"Remarketing Agent" means the Remarketing Agent for a Series of Bonds appointed pursuant to a Series Resolution or any successor.

"Remarketing Agreement" means an agreement by and between the City and another person pursuant to which Option Bonds tendered for purchase or redemption are to be remarketed to the public by such other person.

"Required Deposits" means, for any period, the amounts, if any, required: (i) to be paid into the Reserve Account in the Special Redemption Fund, and (ii) to pay Support Facility Reimbursement Obligations.

"Reserve Account" means the Reserve Account in the Special Redemption Fund, created in **Section 6.01**.

"Reserve Account Requirement" means that amount, if any, determined in a Series Resolution; *provided, however*, that for purposes of this definition, Aggregate Debt Service shall be computed with respect to each Variable Rate Bond by using the Assumed Long-Term Fixed Rate applicable thereto.

"Resolution" means this Resolution as from time to time amended or supplemented by one or more Supplemental Resolutions.

"Revenue Bond Index" means the thirty (30) year Revenue Bond Index of *The Bond Buyer*, a publication in New York, New York, or any successor publication maintaining such Index or in the event *The Bond Buyer* or any successor publication does not maintain such Index, an equivalent index with the same or similar components as the Revenue Bond Index.

"Revenue Fund" means the Revenue Fund described in **Section 6.01**.

"Revenues" means the moneys, including any moneys collected from the City or any department thereof, derived by the City from the rates, rentals, fees and charges prescribed for the use and services of, and the facilities and commodities furnished by, the Sewerage System, including, without limiting the generality of the foregoing, (i) all income, receipts, profits, and other moneys derived from the furnishing or supplying of the services, facilities and commodities through the Sewerage System; (ii) all payments made by Counterparties pursuant to Interest Rate Exchange Agreements; and "Revenues" shall not include, (i) deposits subject to refund until such deposits have become the property of the City; (ii) contributions in-aid-of construction and assessment, impact and other similar fees imposed and collected by the City which are targeted to pay the Costs of specific Improvements; (iii) income, fees, charges, receipts, profits or other moneys derived by the City from

the ownership or operation of any separate utility system; (iv) any gifts, grants, donations or other moneys received by the City for purposes of the Sewerage System from any State or Federal agency or other person if such gifts, grants, donations or other moneys are the subject of any limitation or reservation: (a) imposed by the donor or grantor; or (b) imposed by law or administrative regulation to which the donor or grantor is subject, limiting the application of such funds; or (v) amounts retained in the Revenue Fund for working capital and operating reserves pursuant to **Section 6.02(B)(3)** hereof.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill and Companies, Inc., its successors and their assigns, and, if such corporation shall for any reason no longer perform the functions of a securities rating agency, S&P shall be deemed to refer to any other nationally recognized rating agency designated by the Comptroller of the City.

"Serial Bonds" means Bonds which mature serially and which are not Term Bonds.

"Series," "Series of Bonds" or "Bonds of a Series" means all Bonds designated as being of the same series issued and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter delivered in lieu thereof or in substitution therefor pursuant to the Resolution.

"Series Resolution" means a resolution authorizing the issuance of a Series of Bonds adopted by the City Council pursuant to **Article III**.

"Sewerage Service Charge" means the sewerage system charge authorized in Section 66.0821(4), Wisconsin Statutes.

"Sewerage System" means all plants and properties, both real and personal and tangible and intangible, now or hereafter existing, under the management, control or jurisdiction of the City, used for, useful in, or pertaining to the collection, transportation, pumping, storage, treatment and disposal of sewage. Without limiting the generality of the foregoing, the Sewerage System shall include: (1) the existing plants and properties comprising the Sewerage System under the management, control or jurisdiction of the City, as of the date of adoption of the Resolution; and (2) all Improvements hereafter constructed or otherwise acquired, purchased or annexed.

"Sinking Fund Installment" means an amount so designated which is established pursuant to **Section 3.03**. The portion of any such Sinking Fund Installment remaining after the deduction of any such amounts credited pursuant to **subsection (A) of Section 6.03** toward the same (or the original amount of any such Sinking Fund Installment if no such amounts shall have been credited toward the same) shall constitute the unsatisfied balance of such Sinking Fund Installment for the purpose of calculation of Sinking Fund Installments due on a future date.

"Special Redemption Fund" means the Sewerage System Special Redemption Fund created in **Section 6.01**.

"State" means the State of Wisconsin.

"Subordinate Obligations" means any bonds, notes or other evidences of indebtedness of the City payable from the Net Revenues, other than the Bonds, issued under **Section 3.07**.

"Subordinate Obligation Fund" means the Subordinate Obligation Fund created in **Section 6.01**.

"Supplemental Resolution" means any resolution adopted by the City Council and becoming effective pursuant to and in compliance with the provisions of **Article X**, which amends or supplements the provisions of the Resolution, any Series Resolution or any other Supplemental Resolution.

"Support Facility" means an irrevocable letter of credit, surety bond, loan agreement, standby purchase agreement or other agreement, facility or insurance or guaranty arrangement issued or extended by one or more Support Facility Providers, pursuant to which the City is entitled to obtain moneys to pay the principal or Redemption Price of Bonds due in accordance with their terms or tendered for purchase or redemption, plus accrued interest thereon to the date of payment, purchase or redemption thereof in accordance herewith and with the Series Resolution authorizing such Bonds, whether or not the City is in default hereunder.

"Support Facility Provider" means the provider of a Support Facility, if any, designated in a Series Resolution.

"Support Facility Reimbursement Obligation" means the obligation of the City described in **subsection (C) of Section 3.10** to directly reimburse the Support Facility Provider of a Support Facility for amounts paid thereunder or a Counterparty under an Interest Rate Exchange Agreement for amounts paid thereunder, whether or not such obligation to reimburse is evidenced by a promissory note or other similar instrument.

"Surplus Fund" means the Surplus Fund created in **Section 6.01**.

"Tax Certificate" means such tax certificates, instructions and other documents as may be executed by an Authorized Officer in connection with the issuance of Tax-exempt Bonds of a Series for the purpose of demonstrating compliance with the applicable provisions of the Code.

"Tax-exempt Bonds" means Bonds the interest on which is intended by the City to be excluded from gross income of the Holders of such Bonds for federal income taxation purposes pursuant to the Code.

"Term Bonds" means Bonds the retirement or the redemption of which shall be provided for from moneys credited to the Special Redemption Fund pursuant to **subsection (A) of Section 6.03**.

"Variable Rate Bonds" means any Bonds issued bearing interest at a rate per annum subject to adjustment from time to time based on the terms thereof, based upon an index, or otherwise calculated in a manner which precludes the actual rate for the entire term of such Bonds from being ascertainable in advance (*i.e.*, a "variable rate"); *provided, however*, that a Bond the interest rate on which shall have been fixed for the remainder of the term thereof shall constitute a Fixed Rate Bond and no longer be a Variable Rate Bond; *provided, further, however*, that in the case where a Bond bears a variable rate and is dated and has the same maturity as a Bond bearing a rate that is a constant rate minus the rate borne by the first bond (*i.e.*, an "inverse variable rate"), both Bonds shall constitute Fixed Rate Bonds and no longer be Variable Rate Bonds.

"Written Certificate of the City," "Written Direction of the City," "Written Request of the City," or **"Written Statement of the City"** means an instrument in writing signed on behalf of the City by an Authorized Officer thereof. Any such instrument and any supporting opinions or certificates may, but need not, be combined in a single instrument with any other instrument, opinion or certificate, and the two or more so combined shall be read and construed so as to form a single instrument. Any such instrument may be based, insofar as it relates to legal, accounting or engineering matters, upon the Opinion of Counsel, or opinion or certificate of accountants or the Consulting Engineer, unless the Authorized Officer signing such Written Certificate or Direction or Request or Statement knew, or in the exercise of reasonable care should have known, that the opinion or certificate with respect to the matters upon which such Written Certificate or Direction or Request or Statement may be based, as aforesaid, is erroneous. The same Authorized Officer, or the same counsel, accountant or engineer, as the case may be, need not certify or opine to all of the matters required to be certified to or opined upon under any provision of the Resolution, but different Authorized Officers, counsel, accountants or engineer may certify or opine to different facts, respectively.

Section 1.02. Definitions of General Terms. Unless the context shall clearly indicate otherwise or otherwise require, in the Resolution words importing persons include firms, partnerships, associations, corporations (public and private), public bodies and natural persons, and also include executors, administrators, trustees, receivers or other representatives.

Unless the context shall clearly indicate otherwise or otherwise require, in the Resolution the terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms, refer to the Resolution and to the Resolution as a whole and not to any particular section or subdivision hereof.

Unless the context shall clearly indicate otherwise or otherwise require, in the Resolution: (i) references to Articles, Sections and other subdivisions, whether by number or letter or otherwise, are to the respective or corresponding Articles, Sections or subdivisions of the Resolution as such Articles, Sections or subdivisions may be amended from time to time; and (ii) the word "heretofore" means before the time of adoption of the Resolution, the word "now" means at the time of adoption of

the Resolution, and the word "hereafter" means after the time of adoption of the Resolution.

Section 1.03. Authority for the Resolution. The Resolution is adopted pursuant to the provisions of the Act.

Section 1.04. Resolution and Bonds Constitute a Contract. In consideration of the acceptance of the Bonds by those who shall hold the same from time to time, each of the obligations, duties, limitations and restraints imposed upon the City by the Resolution shall be deemed to be a covenant between the City and every Holder of the Bonds, and the Resolution and every provision and covenant hereof shall be deemed to be and shall constitute a continuing contract and agreement between the City and the Holders from time to time of the Bonds issued hereunder, to secure the full and final payment of the principal and Redemption Price of and interest on all Bonds which may from time to time be issued, executed, and delivered hereunder. The covenants and agreements herein set forth to be performed by the City shall be for the equal and proportionate benefit, security and protection of all Holders of the Bonds without preference, priority or distinction as to payment or security or otherwise of any of the Bonds over any of the others for any reason or cause whatsoever except as expressly provided in the Resolution, in a Series Resolution, in a Supplemental Resolution, or in the Bonds.

ARTICLE II

COMPUTATIONS; CERTIFICATES AND OPINIONS; EVIDENCE OF ACTION BY THE CITY

Section 2.01. Computations. Unless the facts shall then be otherwise, all computations required for the purposes of the Resolution shall be made on the assumption that (i) the principal of and interest on all Bonds shall be paid as and when the same become due; (ii) all credits required by the Resolution to be made to the Special Redemption Fund shall be made in the amounts and at the times required by the Resolution; and (iii) all Bonds required by the Resolution to be redeemed from moneys credited to the Special Redemption Fund shall be redeemed on the respective due dates or Sinking Fund Installment dates therefor in the amounts and at the times required by the Resolution.

Section 2.02. Certificates and Opinions. Except as otherwise specifically provided in the Resolution each certificate or opinion with respect to compliance with a condition or covenant provided for in the Resolution shall include: (i) a statement that the person making such certificate or opinion has read such covenant or condition; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (iii) a statement that, in the opinion of such person, an examination and investigation has been made as is necessary to enable the expression of an informed opinion as to whether or not such covenant or condition has been complied with; (iv) a statement as to whether or not, in the opinion of such person, such covenant or condition has been complied with; and (v) an identification of any other certificates or opinions relied on in such certificate or opinion.

Any Opinion of Counsel may be qualified by reference to the exercise of the constitutional powers of the United States of America, the sovereign police powers of the State, and judicial discretion and to bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights.

Section 2.03. Evidence of Action by the City. Except as otherwise specifically provided in the Resolution, any request, direction, command, order, notice, certificate or other instrument of, by or from the City shall be effective and binding upon the City for the purposes of the Resolution if signed by the person or persons authorized to execute the same by statute, City Charter or by-law or by a resolution or vote of the City.

ARTICLE III

AUTHORIZATION AND ISSUANCE OF SEWERAGE SYSTEM REVENUE BONDS

Section 3.01. Authorization of Bonds. (A) There are hereby authorized to be issued hereunder and secured hereby revenue bonds of the City to be known as and entitled "Sewerage System Revenue Bonds." The Bonds may be issued hereunder from time to time in Series, pursuant and subject to the terms, conditions and limitations of the Resolution, in such amounts as may be determined by the Common Council, for any lawful use or purpose relating to the Sewerage System, including, without limitation, payment of all or a portion of the Costs of any Improvement or refunding any Bond or Subordinate Obligation. The principal amount of Bonds which may be issued hereunder and secured hereby shall not be limited, except as provided hereby or as may be provided by law.

(B) Each Series of Bonds shall be issued pursuant to a Series Resolution satisfying the requirements of **Section 3.03**; *provided, however*, that nothing contained herein shall be deemed to preclude or restrict the consolidation pursuant to a Series Resolution of any Bonds of any two or more separate Series authorized pursuant hereto and to any such Series Resolution to be issued pursuant to any of the provisions of **Sections 3.04 and 3.05** into a single Series of Bonds for purposes of sale and issuance; *provided* that each of the conditions and other requirements contained in **Sections 3.03, 3.04 and 3.05** as applicable to each such separate Series shall be met and complied with. Except as otherwise provided in this Section or in such Series Resolution, such a consolidated Series shall be treated as a single Series of Bonds for all purposes hereof.

Section 3.02. Pledge of Revenues, Funds and Other Moneys. (A) The Bonds are limited special obligations of the City payable solely from and secured by the funds pledged therefor. There are hereby pledged as security for the payment of the principal and Redemption Price (if any) of, and interest on, the Bonds in accordance with their terms and the provisions of the Resolution, subject only to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution: (i) the proceeds of sale of the Bonds pending application thereof in accordance with the provisions hereof or of a Series Resolution, (ii) the Net Revenues, and (iii) all Funds and Accounts held under the Resolution other than (a) the Rebate Fund and (b) the Subordinate Obligation Fund, including the investments, if any, in such Funds and Accounts; and the Bondholders shall have a lien on, and a security interest in, such proceeds, Net Revenues, and Funds and Accounts for such purpose and subject to such provisions of the Resolution. Such lien and security interest for the payment of Bonds shall be prior and superior to the lien and security interest for the payment of Subordinate Obligations. The Bonds are additionally secured by a mortgage lien upon the Sewerage System which shall be perfected by the recording of this Resolution in the records of the City.

(B) The pledge of, and lien on, and security interest in, the proceeds of the Bonds and the Net Revenues as received by the City and the Funds and Accounts herein, other than the Rebate Fund and the Subordinate Obligation Fund, shall be valid and irrevocable: (i) from and after the time that, if required by State law, a financing statement is filed with respect to such pledge, lien and security interest as required by State law, and, upon such filing; or (ii), if no financing statement is so required by State law, upon delivery of the proceeds of a Series of Bonds, and all the Net Revenues as received by the City and the Funds and Accounts herein, other than the Rebate Fund and the Subordinate Obligation Fund, shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid as against, and prior to the lien of, all parties having claims of any kind in tort, contract or otherwise against the City irrespective of whether such parties have notice thereof.

(C) The Bonds issued hereunder shall be equally and ratably payable and secured hereunder without priority by reason of date of adoption of the Series Resolution authorizing a Series of Bonds or by reason of their Series, number or date, date of issue, execution, authentication or sale thereof, or otherwise; *provided, however,* that nothing herein shall prevent the City from affording any particular Series of Bonds or particular Bonds additional or different security through a Support Facility or escrow funds. Bonds which are not a part of a Series for which an escrow fund, or other funds and accounts has been created to provide additional or different security shall not be entitled to the benefits of such escrow fund, or other funds and accounts except to the extent specifically provided in the Series Resolution authorizing such Series.

(D) The principal and Redemption Price (if any) of, and interest on, the Bonds shall be payable only from the Special Redemption Fund and not from any funds of the City other than the Special Redemption Fund and the Bonds shall not constitute a general obligation of the City, or create a charge upon any other revenues or property of the City, except the Net Revenues and other moneys and securities pledged under the Resolution. No Holder of the Bonds shall have the right to compel the exercise of the taxing power of the State or any political subdivision thereof, including the City, in connection with any default with respect to the Bonds. Each Bond shall recite in substance the provisions of this subsection (D).

(E) No Holder of a Bond shall be required to see that the moneys derived from such Bonds are applied to the purpose or purposes for which such Bond is issued. The validity of the Bonds shall neither be dependent upon nor affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of the Sewerage System nor the use and application of the proceeds of the Bonds. The Bonds shall contain a recital that they are issued pursuant to the Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 3.03. Series Resolutions. Each Series Resolution authorizing the issuance of a Series of Bonds shall specify the following:

(a) The sale of the Bonds of such Series at public or private sale; approval of the terms of and publication of an official statement or other offering document describing the Bonds of such Series and, if such Bonds are to be sold at public sale, publication of a notice of sale or summary notice of sale; and execution of a contract or contracts of purchase at public or private sale on behalf of the City;

(b) The authorized principal amount of such Series of Bonds and an appropriate Series designation, in addition to the title "Sewerage System Revenue Bonds;"

(c) The purpose or purposes for which such Series of Bonds is being issued and if any such purpose be payment of the Cost of an Improvement, the description, in general terms, of such Improvement and the then estimated Cost;

(d) The date or dates, maturity date or dates and principal amount of each maturity of the Bonds of such Series or the method for calculating such dates and amounts, the amount and date of each Sinking Fund Installment, if any, or the method for calculating the Sinking Fund Installments and which Bonds of such Series are Serial Bonds or Term Bonds, if any, and the Record Date or Record Dates of the Bonds of such Series for which the Record Date or Record Dates is other than the fifteenth (15th) day (whether or not a Business Day) next preceding an interest payment date for such Bonds or the forty-fifth (45th) day (whether or not a Business Day) preceding a redemption date;

(e) The interest rate or rates, if any, of the Bonds of such Series or the manner of determining such rate or rates, the date from which interest on the Bonds of such Series shall accrue, the dates on which interest on the Bonds of such Series shall be payable, if any, and if any Bonds of such Series are Variable Rate Bonds, the Maximum Interest Rate for such Bonds, and the provisions, if any, as to the calculation or change of variable interest rates;

(f) If Bonds of such Series are Option Bonds, provisions regarding tender for purchase or redemption thereof and payment of the purchase or Redemption Price thereof; provisions regarding the appointment of a Remarketing Agent, and (i) the terms upon and the procedures with which such Remarketing Agent shall purchase and remarket Bonds tendered by the holders thereof pursuant to valid notices of tender as specified in the Series Resolution at the purchase price of such Bonds; and (ii) the procedures and standards pursuant to which the Remarketing Agent shall determine, among other things specified in the Series Resolution, the period during which a particular rate of interest determined for a Series of Bonds is to remain in effect pursuant to a Series Resolution, the interest rate of the Bonds and matters relating thereto;

(g) The denomination or denominations of and the manner of numbering and lettering the Bonds of such Series;

(h) Whether any of the Bonds of such Series shall be Book Entry Bonds and the Depository therefor;

(i) The Paying Agent or Paying Agents for such Series of Bonds and, the place or places of payment of the principal, Sinking Fund Installments, if any, Redemption Price of and interest on the Bonds of such Series;

(j) The Redemption Price or Redemption Prices, if any, and, subject to **Article V** hereof, the redemption terms, if any, for the Bonds of such Series;

(k) The provisions for the sale or exchange of the Bonds of such Series and for the delivery thereof;

(l) The form of the Bonds of such Series and the form of the Paying Agent's certificate of authentication thereon;

(m) Directions for the application of the proceeds of the Bonds of such Series, including the interest on such Bonds to be capitalized from the proceeds thereof, if any, and the date or dates to which such capitalized interest shall accrue;

(n) Whether a Support Facility is to be obtained or an Interest Rate Exchange Agreement is to be entered into in connection with the issuance of such Series; *provided, however*, that, if any Bonds of such Series are Option Bonds, (i) the appointment of a Support Facility Provider which shall supply a Support Facility with respect to such Series of Bonds; (ii) provisions for the establishment of separate accounts in which amounts drawn under a Support Facility for the Series of Bonds being authorized are to be deposited; and (iii) provisions for maintenance, replacement and notices to Bondholders, Rating Agencies and other persons;

(o) Whether the Bonds of such Series shall be Tax-exempt Bonds;
and

(p) Any other provisions deemed advisable by the Common Council that is not in conflict with the provisions hereof.

The Common Council may delegate to the Commissioners of the Public Debt of the City the authority to specify any of the foregoing terms and provisions, other than the terms and provisions set forth in clauses (a), (b) and (c) above, in a resolution or resolutions adopted by such Commissioners of the Public Debt and filed with the City Clerk. Notwithstanding the foregoing, the Common Council shall determine for each Series of Bonds the maximum maturity date, the maximum interest rate, and the maximum redemption premium, if any, as well as the earliest redemption date.

Section 3.04. Conditions for the Issuance of Bonds Other Than Refunding Bonds Hereunder. (A) One or more Series of Bonds, exclusive of Refunding Bonds issued pursuant to **Section 3.05**, may be issued hereunder at any time and from time to time for any lawful use or purpose relating to the Sewerage System, including, without limitation, payment of all or a portion of the Costs of Improvements, but only upon compliance as to each such Series with the provisions of **Section 3.03** and provision of the following documents or moneys or securities:

(1) A certified copy of the Series Resolution authorizing the issuance of the Bonds of such Series.

(2) If any Bonds of such Series are Option Bonds, a Support Facility in such an amount as would provide sufficient moneys for the purchase or redemption of all Option Bonds of such Series if the Holders thereof elected to tender for purchase or redemption the entire aggregate Outstanding principal amount of the Option Bonds of such Series.

(3) An opinion of Bond Counsel to the effect that: (a) the Resolution, including the applicable Series Resolution authorizing the Series of Bonds, has been duly and lawfully adopted by the Common Council and is a valid and legally binding instrument of the City, enforceable in accordance with the terms thereof; (b) the Resolution creates a valid pledge and lien which it purports to create of the Net Revenues, moneys, securities and funds held or set aside under the Resolution, subject to the application thereof to the purposes and on the terms and conditions permitted by the Resolution; and (c) the Bonds of such Series are valid and legally binding limited special obligations of the City, enforceable in accordance with the terms thereof, are entitled to the benefits of the Resolution and the Act, have been duly and validly authorized, issued and authenticated in accordance with law and the Resolution, and do not violate the provisions of the Resolution.

(4) Either (I) a Written Certificate of an Authorized Officer of the City based: (i) on audited figures or (ii) to the extent audited figures are not available, on figures taken by an independent certified public accountant from the City's books and records, showing that the Net Revenues for: (a) the most recent Fiscal Year, or (b) any consecutive twelve (12) months' period out of twenty-four (24) months immediately preceding the month in which such Bonds are issued were not less than the greater of: (x) the sum of (1) the maximum Aggregate Debt Service on all Bonds then Outstanding and on the proposed Series of Bonds in any Fiscal Year and the twelve (12) month period selected and (2) the Required Deposits for such Fiscal Year or the twelve (12) month period selected; and (y) 1.20 times the maximum Aggregate Debt Service on all Bonds then Outstanding and on the proposed Series of Bonds in any Fiscal Year and the twelve (12) month period selected, plus 1.20 times the aggregate Support Facility Reimbursement Obligations outstanding as of the date of the Written Certificate of the City, or (II) a Written Certificate of an Authorized Officer of the City or Certificate of the Consulting Engineer that the Net Revenues to be derived in each of the five (5) Fiscal Years following

the earlier of: (i) the end of the period during which interest is capitalized or, if no interest is to be capitalized, the Fiscal Year in which the proposed Series of Bonds are issued, and (ii) the date on which substantially all Improvements to be financed with the proceeds of the proposed Series of Bonds are expected to commence operations, or, if the proceeds of such Series of Bonds will not be used to fund the Costs of Improvements, the Fiscal Year in which the proposed Series of Bonds are issued, are estimated to be not less than the greater of: (x) the sum of (1) the maximum Aggregate Debt Service on all Bonds then Outstanding and on the proposed Series of Bonds in any such Fiscal Year, and (2) the Required Deposits for any such Fiscal Year; and (y) 1.20 times the maximum Aggregate Debt Service on all Bonds then Outstanding and on the proposed Series of Bonds in any such Fiscal Year, plus 1.20 times the aggregate Support Facility Reimbursement Obligations outstanding as of the date of such Written Certificate of the City or certificate of the Consulting Engineer, as the case may be (the "Additional Bonds Requirement").

(5) Such further documents, moneys and securities as are required by the provisions of any Series Resolution.

(6) The provisions of paragraph (4) of subsection (A) of this **Section 3.04** shall not apply to the initial Series of Bonds issued pursuant to the Resolution, unless or except as is otherwise set forth in the Series Resolution authorizing the issuance thereof.

(B) In determining Debt Service on Variable Rate Bonds then Outstanding and Variable Rate Bonds then proposed to be issued for purposes of the Additional Bonds Requirement, the interest rate shall be calculated as: (i) if any Variable Rate Bonds are then Outstanding and have been Outstanding for at least twenty-four (24) months, the highest average interest rate borne by such Variable Rate Bonds for any 30-day period, or (ii) if no such Variable Rate Bonds are then Outstanding, the Revenue Bond Index at the time of calculation.

Section 3.05. Refunding Bonds. (A) The City by means of a Series Resolution adopted in compliance with the provisions of **Section 3.03** may issue hereunder a Series of Refunding Bonds at any time for the purpose of refunding (including by purchase) at any time all or any portion of Bonds Outstanding, including amounts to pay principal, redemption premium and interest to the date of maturity or redemption (or purchase) and the expense of issuing the Refunding Bonds and of effecting such refunding; *provided, however,* that the provisions of **subsection (A) of Section 3.04** shall be complied with upon the issuance of such Series; *provided, further, however,* that **clause (4) of subsection (A) of Section 3.04** need not be complied with if the Refunding Bonds proposed to be issued do not mature later than the Bonds to be refunded and Debt Service in any Fiscal Year on the Refunding Bonds proposed to be issued does not exceed Debt Service in any Fiscal Year on the Bonds to be refunded by more than ten percent (10%).

(B) The City by means of a Series Resolution adopted in compliance with the provisions of **Section 3.03** may issue hereunder a Series of Refunding Bonds at any time for the purpose of refunding (including by purchase) at any time all or any portion of outstanding Subordinate Obligations, including amounts to pay principal, redemption premium and interest to the date of maturity or redemption (or purchase) and the expense of issuing the Refunding Bonds and of effecting such refunding; *provided, however*, that the provisions of **subsection (A) of Section 3.04** shall be complied with upon the issuance of such Series.

(C) The proceeds of the Refunding Bonds of each Series issued pursuant to this **Section 3.05** shall be applied for the purposes of making deposits in such Funds and Accounts under the Resolution and shall be applied to the refunding purposes thereof as shall be provided by the Series Resolution authorizing such Refunding Bonds.

Section 3.06. Bond Anticipation Notes. Bond anticipation notes ("Bond Anticipation Notes") may be issued by the City at such time as the City shall have by a Series Resolution duly adopted authorized the issuance thereof. The Bond Anticipation Notes may be printed, lithographed or typewritten, shall be of such denomination as may be determined by an Authorized Officer, and shall bear such legends as may be deemed necessary by such Authorized Officer. Each Bond Anticipation Note shall be executed in the manner prescribed for the definitive Bonds. The principal of such Bond Anticipation Notes may be paid from the proceeds of such Bond Anticipation Notes (or any renewal thereof) or from the proceeds of the Bonds in anticipation of which such Bond Anticipation Notes were issued.

Section 3.07. Subordinate Obligations. (A) The City may at any time or from time to time, issue evidences of indebtedness payable out of, and which may be secured by a pledge of, such amounts in the Subordinate Obligation Fund as may from time to time be available for the purpose of payment thereof. The City may, by resolution, provide for various priorities in the liens and pledges securing Subordinate Obligations, and nothing in the Resolution shall be construed so as to require that the payment of, or pledges securing, Subordinate Obligations be on a parity *inter se*.

(B) Any issue of Subordinate Obligations may have such rank or priority with respect to any other issue of Subordinate Obligations as may be provided in the resolution securing such issue of Subordinate Obligations and may contain such other provisions as are not in conflict with the provisions of the Resolution.

Section 3.08. Separate Utility Systems. Nothing contained in the Resolution shall prevent the City from authorizing and issuing bonds, notes, warrants, certificates or other obligations or evidences of indebtedness, other than Bonds, to acquire or construct facilities for the collection, treatment or disposal of sewage, and any incidental properties to be constructed or acquired in connection therewith, which facilities shall be a separate utility system and which bonds or other obligations or evidences of indebtedness shall be payable solely from the revenues or other income derived from the ownership or operation of such separate system; *provided, however*,

that the City will not issue bonds, notes, warrants, certificates or other obligations or evidences of indebtedness for the purpose of acquiring or constructing such a separate utility system unless and until a report of the Consulting Engineer shall be delivered to the Comptroller to the effect that: (i) the plan for developing the separate utility system is consistent with sound planning, and the separate utility system is of such character that it would be useful to the City; (ii) the separate utility system can be economically and effectively utilized by the City; (iii) the cost of the services of the separate utility system is reasonable in comparison to alternative sources; and (iv) in the opinion of the Consulting Engineer, the acquisition, construction or operation of such separate utility system will not result in a reduction of the Revenues below the amounts covenanted by **Section 8.02** to be maintained.

Section 3.09. *Special Provisions for Certain Bonds.*

(A) A repurchase or redemption of any Option Bond pursuant to the provisions of a Series Resolution shall not cause any such Bond so repurchased or redeemed to lose the benefit of any security hereunder or to be no longer deemed to be Outstanding pursuant to **Article XII**. The repurchase or Redemption Price shall be financed by the proceeds of resale of the repurchased Bonds, from moneys received under a Support Facility or by any other lawful means, or by a combination of the foregoing.

(B) For purposes of calculating the payments into the Special Redemption Fund pursuant to **Section 6.03** with respect to Variable Rate Bonds, the interest accrued or estimated by an Authorized Officer to accrue during the calendar month in which the payment is to be made shall be the amount of the required payment, subject in the case of an estimate to an adjustment at the end of the month.

Section 3.10. *Support Facilities and Interest Rate Exchange Agreements.* (A)

In connection with the issuance of any Series of Bonds and to the extent permitted by law, the City may obtain or cause to be obtained from one or more Support Facility Providers one or more Support Facilities providing for payment of all or a portion of the purchase price or principal, premium, if any, or interest due or to become due on specified Bonds of such Series, or providing for the purchase of such Bonds or a portion thereof by such Support Facility Providers, or providing, in whole or in part, for the funding of the Reserve Account pursuant to **Section 6.03**. In connection with the issuance of any Series of Bonds or to better manage its assets and liabilities and, to the extent permitted by law, the City may enter into with one or more Counterparties one or more Interest Rate Exchange Agreements; *provided* that no such Interest Rate Exchange Agreement shall adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the Tax-exempt Bonds of any Series.

(B) In connection therewith, the City may enter into agreements with one or more Support Facility Providers or Counterparties to provide for, among other things: (i) the payment of fees and expenses to such Support Facility Providers or Counterparties; (ii) the terms and conditions of such Support Facility or Interest Rate Exchange Agreement and the Series of Bonds affected thereby; and (iii) the security,

if any, to be provided to such Support Facility Providers or Counterparties. The City may secure the Support Facility or Interest Rate Exchange Agreement by an agreement providing for the purchase of the Bonds secured thereby with such adjustments to the rate of interest, method of determining interest, maturity, or redemption provisions as specified in the Series Resolution. Debt Service with respect to any Bonds so secured shall be calculated for purposes of the definition of Reserve Account Requirement by using the Assumed Long-Term Fixed Rate.

(C) The City may also agree in any agreement with the Support Facility Provider of such Support Facility or the Counterparty under an Interest Rate Exchange Agreement to reimburse directly such Support Facility Provider or Counterparty for any amounts paid under the terms of such Support Facility or Interest Rate Exchange Agreement, together with interest thereon (the "Support Facility Reimbursement Obligation"); *provided, however*, that no Support Facility Reimbursement Obligation shall be created, for purposes of the Resolution, until amounts are paid under such Support Facility or Interest Rate Exchange Agreement, as the case may be. Any such Support Facility Reimbursement Obligation may be secured by a lien on and pledge of the Net Revenues on a parity with the lien on and pledge of the Net Revenues created by **Section 3.02** with respect to the Bonds (a "Parity Support Facility Reimbursement Obligation"). Any such Parity Support Facility Reimbursement Obligation shall be deemed to be a part of the Series of Bonds to which the Support Facility which gave rise to such Parity Support Facility Reimbursement Obligation relates. Payment of Support Facility Reimbursement Obligation may be made out of the Revenue Fund as provided in **subsection (D) of Section 6.02**.

(D) The City shall obtain and maintain in effect one or more Support Facilities for Option Bonds. The City shall obtain a replacement Support Facility to replace any Support Facility for Option Bonds that is expiring, not renewed or terminated. Procedures for such replacement, maintenance and notices to Bondholders, rating agencies or other persons shall be provided in the Series Resolution authorizing the Series of Bonds.

Section 3.11. Service to the City. The reasonable cost and value of services rendered to the City by the Sewerage System by furnishing sewer services for public purposes, shall be charged against the City and shall be paid by it in quarterly installments as the service accrues, out of the current revenues of the City collected or in the process of collection, exclusive of the revenues derived from the Sewerage System and out of the tax levy of the City made by it to raise money to meet its necessary current expenses. It is hereby found and determined that the reasonable cost and value of such service to the City in each Fiscal year shall be the amount necessary in the Fiscal Year which, together with the other revenues of the Sewerage System, will produce Net Revenues in each Fiscal Year equal to not less than 1.00 times the maximum aggregate Debt Service on the Bonds then Outstanding plus 1.00 times the aggregate Support Facility Reimbursement Obligations then Outstanding. However, such payment out of the tax levy shall be subject to (a) approval of the Public Service Commission, or successors to its function, if necessary, (b) yearly appropriations therefor and (c) applicable levy limitations, if any; but neither this Resolution nor such

payment shall be construed as constituting an obligation of the City to make any such appropriation over and above the reasonable cost and value of services rendered to the City and its inhabitants or make any subsequent payment over and above such reasonable cost and value. Such compensation for such service rendered to the City shall, in the manner hereinabove provided, be paid into the Revenue Fund created by Section 6.01 hereof.

ARTICLE IV

GENERAL TERMS AND PROVISIONS

Section 4.01. Terms of Bonds. (A) Unless or except as is otherwise set forth in the Series Resolution authorizing a Series of Bonds, the Bonds of a Series shall be issued in fully registered form or, if permitted by law, book entry or uncertificated form, and may contain such variations, amounts and insertions as are incidental to such differences of numbering, denominations and forms, including variations in the provisions for the registration and transfer of such Bonds.

(B) Unless or except as is otherwise set forth in the Series Resolution authorizing a Series of Bonds, Bonds shall be issued in the denomination of \$5,000, or any multiple of \$5,000 and shall be numbered from R-1 upwards in chronological order as issued, or in any other manner determined by the City.

(C) Unless or except as is otherwise set forth in the Series Resolution authorizing a Series of Bonds, the principal and Redemption Price (if any) of, and interest on, each Series of the Bonds shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts. Unless or except as is otherwise set forth in the Series Resolutions authorizing a Series of Bonds, the principal and Redemption Price (if any) of each Series of Bonds shall be payable at the Principal Office of the Paying Agent for such Series. Unless or except as is otherwise set forth in the Series Resolution authorizing a Series of Bonds, payment of the interest on each Bond shall be made on each interest payment date to the Holder of record upon the Bond Registry as of the Record Date by check or draft drawn upon the Paying Agent for such Series and mailed to such Holder at such Holder's address as it appears on the Bond Registry kept pursuant to the provisions of **Section 4.05**, or, at the option of the Holder of at least one million dollars (\$1,000,000) in principal amount of Bonds of such Series, by wire transfer to such Holder at the wire transfer address in the continental United States to which such Holder has, not less than five (5) days prior to the Record Date immediately preceding such interest payment date for such Bonds, directed to the Paying Agent for such Series to wire such interest payment.

Section 4.02. Execution of Bonds. Unless or except as otherwise set forth in the Series Resolution provided for their issuance, the Bonds shall be executed with the manual or facsimile signatures of the Mayor of the City and countersigned by the manual or facsimile signatures of the Commissioners of the Public Debt of the City and the Comptroller of the City, and the City's seal shall be affixed, or a facsimile of the City's seal shall be imprinted, on each Bond of a Series. In case any of the officers who shall have signed, attested, authenticated or registered any of the Bonds shall cease to be such officer before such Bonds have been actually issued and delivered, such Bonds shall be valid nevertheless and may be issued by the City with the same effect as though the persons who had signed, attested, authenticated or registered such Bonds had not ceased to be such officers.

Section 4.03. Bonds Are Negotiable Instruments. All of the Bonds shall be negotiable instruments to the extent provided by the Uniform Commercial Code of the State. The City, the Paying Agents and any other person may treat the Holder of any Bond as the absolute owner of such Bond for the purpose of making payment thereof and for all other purposes, and neither the City nor the Paying Agents shall be bound by any notice or knowledge to the contrary, whether such Bond shall be overdue or not. All payments of or on account of interest to any registered Holder of any Bond (or to his registered assigns), and all payments of or on account of principal to any Holder of any Bond, shall be valid and effectual and shall be a discharge of the City and the Paying Agents, in respect of the liability upon the Bonds or claims for interest, as the case may be, to the extent of the sum or sums paid.

Section 4.04. Bond Registry. At all times during which any Bonds remain outstanding and unpaid, the Paying Agent shall keep or cause to be kept at its Principal Office books (herein referred to as the "Bond Registry") for the registration and transfer of Bonds. Upon presentation at its Principal Office for such purpose the Paying Agent, under such reasonable regulations as it may prescribe, shall register or transfer, or cause to be registered or transferred, on said Bond Registry, Bonds as hereinbefore set forth. The Bond Registry shall at all times be open for inspection by the City or its duly authorized agent or representative. At reasonable times and under reasonable procedures established by the Paying Agent, the Bond Registry pertaining to Bonds in registered form and any such lists may be copied by the City or inspected and copied by the Holders (or a designated representative thereof) of ten percent (10%) or more in principal amount of Bonds then Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Paying Agent. The Paying Agent shall furnish to each Paying Agent for a Series of Bonds such information from the Bond Registry at such times as is necessary in order for such Paying Agent to effect payment of the principal and Redemption Price, if any, of and interest on the Bonds of such Series.

Section 4.05. Transfer of Bonds. (A) Any fully registered Bond, unless or except as may otherwise be provided in the Series Resolution authorizing the issuance of such Bond, may, in accordance with its terms, be transferred upon the Bond Registry required to be kept pursuant to the provisions of **Section 4.05**, by the person in whose name it is registered, in person or by such Holder's duly authorized attorney, upon surrender of such fully registered Bond to the Paying Agent for cancellation, accompanied by delivery of a written instrument of transfer duly executed by the registered Holder in person or such Holder's duly authorized agent, in form satisfactory to the Paying Agent.

(B) Whenever any fully registered Bond shall be surrendered for transfer, the City shall execute and deliver, at the Principal Office of the Paying Agent (or send by registered mail to the new Holder thereof at such Holder's request, risk and expense), in the name of the transferee or transferees, a new duly executed fully registered Bond or Bonds, of the same Series, interest rate and maturity and for a like aggregate principal sum. To the extent of denomination authorized in respect of any

such Bond, one such fully registered Bond may be transferred for several such fully registered Bonds of the same Series, interest rate, maturity and aggregate principal amount, and several such fully registered Bonds may be transferred for one or several such fully registered Bonds of the same Series, interest rate, maturity and aggregate principal amount. Unless or except as may otherwise be provided in the Series Resolution authorizing the issuance of the Bonds of the Series, all transfers pursuant to this Section shall be made without expense to the Holder of such Bonds, except as otherwise herein provided, and except that the Paying Agent shall require the payment by the Holder of the Bond requesting such transfer of any tax or other governmental charges required to be paid with respect to such transfer. All fully registered Bonds surrendered pursuant to this Section shall be canceled.

(C) Unless or except as may otherwise be provided in a Series Resolution, neither the City nor the Paying Agent shall be required (a) to transfer or exchange Bonds during a period beginning at the opening of business on the Record Date next preceding an interest payment date on the Bonds or next preceding the date (as determined by the Paying Agent) of any selection of Bonds of a particular Series to be redeemed and ending on such interest payment date, or for a period of fifteen days next preceding the date (as determined by the Paying Agent) of any selection of Bonds to be redeemed or thereafter until after the first mailing of notice of redemption of any proposed redemption of Bonds; or (b) to transfer or exchange any Bonds called for redemption.

Section 4.06. Exchange of Bonds. (A) Bonds of a Series, upon surrender thereof at the Principal Office of the Paying Agent, together with an assignment duly executed by the Holder or such Holder's authorized agent in such form as shall be satisfactory to the Paying Agent, may, at the option of the Holder thereof, be exchanged for an equal aggregate principal amount of Bonds of the same Series and maturity, of any denomination or denominations authorized by the Resolution, and bearing interest at the same rate, and in the same form as the Bonds surrendered for exchange. All Bonds of a Series so surrendered pursuant to this Section shall be canceled by the Paying Agent. Any Bonds of a Series to be delivered to the Holder upon any such exchange shall be delivered to the Holder at the Principal Office of the Paying Agent, or sent by mail to the Holder thereof at such Holder's request, risk and expense.

(B) The Series Resolution authorizing the issuance of a Series of Bonds may establish the periods within which the Paying Agent for such Series shall not be required to provide for the exchange of Bonds of such Series.

(C) Unless or except as may otherwise be provided in the Series Resolution authorizing the issuance of the Bonds of a Series, all exchanges pursuant to this Section shall be made without expense to the Holders of such Bonds, except as otherwise herein provided, and except that the Paying Agent shall require the payment by the Holder of the Bond requesting such exchange of any tax or other governmental charges required to be paid with respect to such exchange.

Section 4.07. Mutilated, Lost, Stolen or Destroyed Bonds. (A) In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the Holder of such Bond, the City shall execute and deliver at the Principal Office of the Paying Agent (or send by registered mail to the Holder thereof at his request, risk and expense), a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the City and the Paying Agent evidence or proof satisfactory to an Authorized Officer and the Paying Agent of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity as may be required by the City and the Paying Agent. Any duplicate Bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond, shall be entitled to the identical benefits under the Resolution as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same Series issued hereunder. Neither the City nor the Paying Agent nor any other Paying Agent appointed hereunder shall be required to treat both the original Bond and any duplicate Bond as being outstanding for the purpose of determining the principal amount of Bonds which may be issued hereunder or for the purpose of determining any percentage of Bonds outstanding hereunder, but both the original and duplicate Bond shall be treated as one and the same.

(B) Notwithstanding the provisions of subsection (A) of this Section as to the issuance of duplicate or replacement Bonds: (i) if any such lost, stolen, destroyed, defaced or mutilated Bond has matured or been called for redemption and the date fixed for the redemption thereof has arrived, at the opinion of the City, payment of the amount due thereon may be made without the issuance of any duplicate or replacement Bond upon receipt of like evidence, indemnity, security and expenses and the surrender for cancellation of any such defaced or mutilated Bond and upon such other conditions as the City may prescribe; (ii) if any such lost, stolen, destroyed, defaced or mutilated Bond shall mature or is of a class or Series which shall mature within one year following the date of application for a duplicate Bond, or has been called or will be called, or is in a class or Series which has been called or will be called, for redemption within one year following such date, instead of issuing a duplicate or replacement Bond the City upon receiving like evidence, indemnity, security and expenses and the surrender for cancellation of any such defaced or mutilated Bond and upon such other conditions as the City may prescribe, may issue or cause to be issued a transferable certificate of ownership to the applicant and pay on such certificate the interest and the Redemption Price or the principal sum thereof, on the interest payment dates and the redemption date or maturity date, upon surrender of such certificate, and all such transferable certificates of ownership shall be in such form as may be determined by the City or as otherwise provided by law; and (iii) if the provisions of applicable law shall provide for the payment of lost, stolen, destroyed, mutilated or defaced Bonds in lieu of the issuance of duplicates or

certificates of ownership therefor, such lost, stolen, destroyed, mutilated or defaced Bonds may be paid in accordance with the provisions of such laws.

(C) All expenses necessary for the providing of any duplicate Bond or certificate of ownership shall be borne by the applicant therefor.

Section 4.08. Disposition and Destruction of Bonds. (A) All Bonds surrendered to the Paying Agent for such Bonds for payment shall be canceled upon such payment by such Paying Agent.

(B) All canceled Bonds shall be delivered to the City or as it may direct. Upon the written request of the City, such Paying Agent, however, in lieu of such cancellation and delivery, may destroy such Bonds. If any Bonds are destroyed by a Paying Agent, the City may require that such destruction be done in the presence of its appointee or officer. If a Paying Agent shall destroy any Bonds, it shall deliver a certificate of such destruction to the City.

Section 4.09. Temporary Bonds. Any Series of Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denomination as may be determined by the City, and may contain such reference to any of the provisions of the Resolution as may be appropriate. Every temporary Bond shall be executed by the City upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues temporary Bonds it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds shall be surrendered, for cancellation, at the Principal Office of the Paying Agent and the Paying Agent shall deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations, of the same Series and maturity or maturities. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under the Resolution as definitive Bonds delivered under the Resolution.

Section 4.10. CUSIP Identification Numbers. At the sole option of the City, CUSIP identification numbers may be printed on the Bonds of any Series of Bonds, but no such number shall be deemed to be a part of any Bond or a part of the contract evidenced thereby, and no liability shall hereafter attach to the City or any officer or agent thereof (including the Paying Agents) because of or on account of said CUSIP identification numbers or any use made thereof.

Section 4.11. Book-Entry Bonds. (A) The Bonds of any Series may be issued as Book-Entry Bonds. For each Series of Bonds issued as Book-Entry Bonds, the Bonds shall be issued in the form of one or more fully-registered immobilized certificates for each Series representing the aggregate principal amount of the Bonds of such Series, which Bonds shall (except as provided in paragraph (H) below) be

registered in the name of the Depository or its nominee; *provided* that if the Depository shall request that the Bonds be registered in the name of a different nominee, the Paying Agent shall exchange all or any portion of the Bonds by Series for an equal aggregate principal amount of Bonds registered in the name of such other nominee or nominees of the Depository. No person other than the Depository or its nominee shall be entitled to receive from the City or the Paying Agent either a Bond or any other evidence of ownership of the Bonds, or any right to receive any payment in respect thereof unless the Depository or its nominee shall transfer record ownership of all or any portion of the Bonds by Series on the Bond Registry, in connection with discontinuing the book-entry system as provided in paragraph (H) below or otherwise.

(B) Except as otherwise provided herein or in a Series Resolution, so long as the Bonds or any portion thereof are registered in the name of the Depository or any nominee thereof, all payments of the principal or Redemption Price of or interest on such Bonds shall be made to the Depository or its nominee in immediately available funds on the dates provided for such payments under the Resolution or a Series Resolution and at such times as provided in the representation letter delivered to the Depository. Each such payment to the Depository or its nominee shall be valid and effective to fully discharge all liability of the City or the Paying Agent with respect to the principal or Redemption Price, if any, of or interest on the Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Bonds Outstanding of any maturity, the Paying Agent for such Bonds shall not require surrender by the Depository or its nominee of the Bonds so redeemed, but the Depository (or its nominee) may retain such Bonds and make an appropriate notation on the Bond certificate as to the amount of such partial redemption; *provided* that the Depository shall deliver to the Paying Agent, upon request, a written confirmation of such partial redemption and thereafter the records maintained by the Paying Agent shall be conclusive as to the amount of the Bonds of such maturity which have been redeemed.

(C) All transfers of the Bonds of such Series issued in Book-Entry Form shall be effected as set forth in **Sections 4.05 and 4.06** of the Resolution; *provided* that the City understands and agrees that the Depository shall establish procedures with its participants for recording and transferring the ownership of beneficial interests in each Bond of such Series.

(D) Except as otherwise provided herein or in a Series Resolution, the City and the Paying Agent may treat the Depository (or its nominee) as the sole and exclusive Holder of the Bonds registered in its name for the purposes of payment of the principal or Redemption Price, if any, of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under the Resolution (except that for purposes of notice to the Depository, such notice shall be given at least two (2) days prior to the date of any required notice to Bondholders), registering the transfer of Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither the City nor the Paying Agent shall be affected by any notice to the contrary. Neither the City nor the Paying Agent shall have any responsibility or obligation to any participant in the Depository, any person claiming a beneficial

ownership interest in the Bonds under or through the Depository or any such participant, or any other person which is not shown on the Bond Registry as being a Holder, with respect to either: (1) the Bonds; or (2) the accuracy of any records maintained by the Depository or any such participant; or (3) the payment by the Depository or any such participant of any amount in respect of the principal or Redemption Price, if any, of or interest on the Bonds; or (4) any notice which is permitted or required to be given to Holders under the Resolution; or (5) the selection by the Depository or any such participant of any person to receive payment in the event of a partial redemption of the Bonds; or (6) any consent given or other action taken by the Depository as Holder,

(E) So long as the Bonds or any portion thereof are registered in the name of the Depository or any nominee thereof, all notices required or permitted to be given to the Bondholders under the Resolution shall be given to the Depository as provided in the representation letter to be delivered to the Depository, in form and content satisfactory to the Depository, the City and the Paying Agent for such Bond.

(F) In connection with any notice or other communication to be provided to Bondholders pursuant to the Resolution by the City or the Paying Agent with respect to any consent or other action to be taken by Bondholders, the Depository shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action; *provided* that the City or the Paying Agent may establish a special record date for such consent or other action. The City or the Paying Agent shall give the Depository notice of such special record date not less than fifteen (15) calendar days in advance of such special record date to the extent possible.

(G) Any successor Paying Agent shall, in its written acceptance of its duties as a paying agent, agree to take any actions necessary from time to time to comply with the requirements of such representation letter.

(H) The book-entry system for registration of the ownership of the Book-Entry Bonds may be discontinued at any time if either: (1) after notice to the City and the Paying Agent, the Depository determines to resign as securities depository for such Bonds; or (2) after notice to the Depository and the Paying Agent, the City determines that a continuation of the system of book-entry transfers through the Depository (or through a successor securities depository) is not in the best interests of the City. In each of such events (unless in the case described in clause (2) above, the City appoints a successor securities depository), the Bonds shall be delivered in registered certificate form to such persons, and by Series in such maturities and principal amounts, as may be designated by the Depository, but without any liability on the part of the City or the Paying Agent for the accuracy of such designation. Whenever the Depository requests the City to do so, the City shall cooperate with the Depository in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

(I) The City may hereafter amend any Series Resolution authorizing the issuance of a Series of Bonds, without notice to, or consent of, the Bondholders of any

of the Series of Bonds in order: (i) to offer to Bondholders, the option of receiving the Bonds of any Series in certificated form, or (ii) to require the execution and delivery of certificates representing a portion or all of any Series of Bonds: (A) if the Depository shall cease to serve as a securities depository and no successor can be found to serve upon terms satisfactory to the City, or (B) if the City determines that it would be in its best interest or in the best interests of Bondholders of any Series of Bonds that they obtain certificates.

ARTICLE V

REDEMPTION OF BONDS

Section 5.01. *Redemption of Bonds.* The Bonds of a Series may be subject to redemption prior to their stated maturities upon such terms and conditions and at such dates and Redemption Prices or premiums as shall be set forth in the Series Resolution authorizing a Series of Bonds and upon the further terms and conditions as are hereinafter set forth.

Section 5.02. *Selection of Bonds for Redemption.* In the event of the redemption at any time of only a part of the Bonds of a Series, the Bonds to be redeemed shall be redeemed in such order as is set forth in the Series Resolution authorizing a Series of Bonds. Whenever provision is made in any Series Resolution for the selection by lot of Bonds to be redeemed, the Paying Agent for such Bonds in any manner which it deems fair shall select the particular Bonds to be redeemed from among those Bonds which are then subject to redemption and to selection by lot for such redemption. The Paying Agent shall promptly notify the City and each other Paying Agent for the Bonds of the Series of Bonds of which such Bond to be redeemed is one, in writing, of the numbers of the Bonds so selected for redemption.

Section 5.03. *Notice of Redemption.* (A) Notice of the redemption of any Bond shall be mailed not less than thirty (30) days prior to the redemption date, by first class mail, postage prepaid, to the Holder of such Bond of record as of the forty-fifth (45th) day (whether or not a business day) next preceding the date fixed for redemption at his address as it appears on the Bond Registry. Notice of redemption of Bonds may, at the sole option of the City, also be given by publication (except as provided below), not less than thirty (30) days prior to the date fixed for the redemption thereof, of one such notice in one issue of an Authorized Newspaper. So long as the Depository is the Holder of the Bonds, notice of redemption may be given in accordance with the procedures of the Depository. Failure to receive such notice by any Holder of any Bond, nor any defect in any notice so mailed, shall not affect the sufficiency of the proceedings for the redemption of any of such Bonds.

(B) The City, at its election, may provide in a notice of redemption of Bonds that such redemption is conditional upon the occurrence or non-occurrence of an event.

(C) The City shall give written notice to the Paying Agent of its election to redeem Bonds at least forty-five (45) days prior to the redemption date, or such shorter period as shall be acceptable to the Paying Agent and if notice of redemption is to be published by the Paying Agent, such notice shall contain all the information necessary to enable the Paying Agent to publish the notice of redemption in the manner aforesaid. As to Bonds which are redeemable by the Paying Agent without action being taken by the City under the terms of the Resolution, the Paying Agent

shall proceed to mail without further direction from the City, and at the Written Request of the City, also publish, notice of redemption of such Bonds at the time specified in the Resolution. Whenever notice of redemption has been duly given as herein provided the Paying Agent shall transfer to the Paying Agent or Paying Agents for the Bonds so to be redeemed amounts in cash which, in addition to other moneys, if any, held by such Paying Agent or Paying Agents for such purpose, will be sufficient to redeem on the redemption date, all the Bonds so to be redeemed.

(D) Each notice of redemption, whether published or mailed, shall state: (i) the title of the Bonds to be redeemed, the Series designation (if any) thereof, the redemption date, the place or places of redemption and the Redemption Price or redemption premium, if any, payable upon such redemption; (ii) if less than all the Bonds of a particular Series are to be redeemed, the numbers of the Bonds to be redeemed; (iii) that the interest on the Bonds, or on the principal amount thereof to be redeemed, designated for redemption in such notice shall cease to accrue from and after such redemption date; and (iv) that on said date there will become due and payable on each said Bond the principal amount thereof to be redeemed at the then applicable Redemption Price (or together with the then applicable redemption premium, if any) and the interest accrued on such principal amount to the redemption date; *provided* that in the event such notice is conditional upon the occurrence or non-occurrence of an event, clauses (iii) and (iv) shall be adapted to reflect such conditional nature of the call. Each notice of redemption mailed to the Holder of a fully registered Bond to be redeemed shall, if less than the entire principal sum thereof is to be redeemed, also state the principal amount thereof to be redeemed and that such fully registered Bond must be surrendered to the Paying Agent in exchange for the payment of the principal amount thereof to be redeemed and the issuance of a new Bond or Bonds equal in principal amount to that portion of the principal sum not to be redeemed of the Bond to be surrendered, as provided in **Section 5.04**.

(E) The Paying Agent shall not give any notice of redemption of Bonds, whether by mail, publication or otherwise, other than redemption by mandatory Sinking Fund Installments and excepting any notice which refers to Bonds which are to be advance refunded, unless the City has deposited in the Special Redemption Fund sufficient funds to pay the Redemption Price of the Bonds to be redeemed or such redemption of Bonds is conditional as in **Section 5.03(B)** provided.

Section 5.04. Partial Redemption of Bonds. In the event that part only of the principal sum of a Bond shall be called for redemption or prepaid, payment of the amount to be redeemed or prepaid shall be made only upon surrender of such Bond to the Paying Agent. Upon surrender of such Bond, the City shall execute and deliver to the registered owner thereof, at the Principal Office of the Paying Agent, a new fully executed Bond or Bonds, of authorized principal sums equal in aggregate principal amount to, and of the same Series, maturity and interest rate as the unredeemed portion of the Bond surrendered.

Section 5.05. *Effect of Redemption.* If a Bond is subject by its terms to prior redemption and has been fully called for redemption and notice of the redemption thereof has been duly given as hereinbefore provided and if moneys for the payment of such Bond (or of the principal amount thereof to be redeemed) at the then applicable Redemption Price or together with the then applicable premium, if any, and the interest to accrue to the redemption date on such Bond (or the principal amount thereof to be redeemed) are held for the purpose of such payment by the Paying Agent or other Paying Agent for the Series of Bonds of which such Bond is one, then such Bond (or the principal amount thereof to be redeemed) so called for redemption shall, on the redemption date designated in such notice, become due and payable, and interest on said Bond (or the principal amount thereof to be redeemed) so called for redemption shall cease to accrue.

Section 5.06. *Cancellation of Redeemed Bonds.* All Bonds surrendered or redeemed pursuant to the provisions of this Article shall be canceled.

ARTICLE VI

FUNDS AND ACCOUNTS; INVESTMENT OF MONEYS

Section 6.01. Establishment of Funds and Accounts. (A) There is hereby created a special fund to be known as the "Sewerage System Revenue Fund" (the "Revenue Fund") into which all Revenues collected by the City have been and shall be deposited, from which the Revenues shall be appropriated and expended for operating expenses of the Sewerage System, other purposes of the Sewerage System, and in which certain working capital and operating reserves for purposes of the Sewerage System have been and shall be maintained. The Revenue Fund shall be considered to be a fund held under the Resolution for purposes of the pledge made in **Section 3.02.**

(B) There are hereby created and established the following additional funds of the City to be maintained so long as any Bonds are Outstanding:

- (1) Operation and Maintenance Fund;
- (2) Rebate Fund;
- (3) Sewerage System Special Redemption Fund (the "Special Redemption Fund") and Reserve Account therein;
- (4) Subordinate Obligation Fund; and
- (5) Surplus Fund.

The Operation and Maintenance Fund, the Sewerage System Special Redemption Fund and Reserve Account therein and the Surplus Fund shall be considered to be funds held under the Resolution for purposes of the pledge made in **Section 3.02.**

(C) There is also hereby created a special fund known as the "Sewerage System Construction Fund" (the "Construction Fund") into which the proceeds of revenue bonds of the City issued to pay the costs of Improvements specified to be expended from such Fund. The Construction Fund shall be considered to be a fund held under the Resolution for purposes of the pledge made in **Section 3.02.**

Section 6.02. Revenue Fund. (A) From and after the time of delivery of the first Bond executed and delivered under the Resolution, Revenues shall be collected by the City and deposited, as soon as practicable, into the Revenue Fund. From the amounts deposited in the Revenue Fund, the City shall transfer to the Operation and Maintenance Fund sufficient moneys to pay the current Operation and Maintenance Expenses of the Sewerage System, transfer to the Rebate Fund such amount as is

necessary to pay the rebate amount due the United States Treasury Department under Section 148 of the Code or to set aside as a reserve for such payment and make the transfers to other Funds and Accounts as in subsection (B) of this **Section 6.02** provided.

(B) In each month, the City, after making the transfer, if any, to the Operating and Maintenance Expenses for such month and setting aside an amount sufficient to pay the Operating and Maintenance Expenses expected to be incurred for the balance of such month and making the transfer, if any, to the Rebate Fund as provided in **Section 6.05**, shall retain, apply or transfer on the fifth (5th) day prior to the end of each month, unless otherwise provided below, a sufficient amount of moneys in the Revenue Fund in the following order of priority:

(1) To the Special Redemption Fund, if and to the extent required so that the balance therein shall equal the Accrued Debt Service for all Bonds Outstanding and the interest accrued on all Bond Anticipation Notes outstanding on said date;

(2) (a) To the Reserve Account in the Special Redemption Fund, if and to the extent required by a Series Resolution either (i) an amount such that the balance in the Reserve Account shall equal the Reserve Account Requirement on said date, or (ii) an amount such that if the same amount were deposited in each month the amount of any deficiency in the Reserve Account shall be eliminated at the end of the twelfth (12th) month following the first credit;

(3) In the Revenue Fund, a reasonable and necessary amount for working capital and operating reserves;

(4) To the Subordinate Obligation Fund, the amount, if any, required to be deposited in such Fund pursuant to the resolution authorizing issuance of the Subordinate Obligations payable from such Fund;

(5) To the Surplus Fund, such amounts as shall remain in the Revenue Fund.

(C) All reasonable and necessary Operation and Maintenance Expenses shall be paid from the Operation and Maintenance Fund as the same become due and payable and, except for the Rebate Fund, prior to any transfer or payment to other funds and accounts set forth herein.

(D) The City may, if provided in a Series Resolution authorizing the Bonds of a Series, directly pay out of the Revenue Fund reimbursements to Support Facility Providers whose Support Facilities have been drawn upon, after payments have been made to the Special Redemption Fund.

Section 6.03. Special Redemption Fund; Reserve Account. (A) Special Redemption Fund. (1) The City shall pay out of the Special Redemption Fund to each

Paying Agent: (i) on or before each interest payment date for any of the Bonds or Bond Anticipation Notes the amount required for the interest payable on such date; (ii) on or before each principal payment date, an amount equal to the principal, if any, due on such date by reason of maturity or by reason of the payment of any Sinking Fund Installment; and (iii) on or before any redemption date for the Bonds, the amount required for the payment of the Redemption Price of and interest on the Bonds then to be redeemed. Such amounts shall be applied by each Paying Agent on and after the due dates thereof. The City shall also pay out of the Special Redemption Fund the accrued interest included in the purchase price of Bonds purchased for retirement.

(2) Amounts accumulated in the Special Redemption Fund by reason of the payment of any Sinking Fund Installment may be applied by the City, on or prior to the sixtieth (60th) day preceding the due date of such Sinking Fund Installment, to: (i) the purchase of Bonds of the maturity for which such Sinking Fund Installment was established, or (ii) the redemption of such Bonds at the applicable Redemption Price, if then redeemable by their terms. All such purchases of Bonds shall: (i) be made at prices not exceeding the applicable Redemption Price of such Bonds plus accrued interest; (ii) be made as arranged by the City in such manner and from such sellers or brokers at such prices as the City shall determine; and (iii) be made to insure that delivery of the Bonds so purchased shall not occur later than the sixtieth (60th) day next preceding the redemption date to which the Sinking Fund Installment is to be applied. The applicable Redemption Price of any Bonds (or principal amount of maturing Bonds) so purchased or redeemed shall be deemed to constitute part of the Special Redemption Fund until such Sinking Fund Installment date, for the purpose of calculating the amount of such Account. As soon as practicable after the sixtieth (60th) day preceding the due date of any such Sinking Fund Installment, the City shall proceed to call for redemption on such due date Bonds of the maturity for which such Sinking Fund Installment was established (except in the case of Bonds maturing on a Sinking Fund Installment date) in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment after making allowance for any Bonds purchased or redeemed pursuant to this **Section 6.03** which the City has applied as a credit against such Sinking Fund Installment as provided in **paragraph (4) of subsection (A) of this Section 6.03**. The City shall pay out of the Special Redemption Fund to the appropriate Paying Agents, on or before the redemption date, the amount required for the redemption of the Bonds so called for redemption, and such amount shall be applied by such Paying Agents to such redemption.

(3) The amount, if any, credited to the Special Redemption Fund from a Series Interest Account (as hereafter defined) in the Construction Fund shall be applied to the payment of interest on the Bonds as the same becomes due and payable as provided in **Section 6.07(D)**.

(4) Upon any purchase or redemption pursuant to **paragraph (2) of subsection (A) of this Section 6.03** of Bonds of any Series and maturity for which Sinking Fund Installments shall have been established: (i) if the principal amount of the Bonds so purchased is less than or equal to the next succeeding Sinking Fund Installment for such Series there shall be credited to the next such Sinking Fund

Installment an amount equal to the principal amount of the Bonds of such Series so purchased; and (ii) if the principal amount of the Bonds so purchased is greater than the next succeeding Sinking Fund Installment, there shall be credited toward each such Sinking Fund Installment thereafter to become due an amount bearing the same ratio to such Sinking Fund Installment as the total principal amount of such Bonds so purchased or redeemed bears to the total principal amount of all such Sinking Fund Installments to be so credited or, at the option of the City, an amount equal to the next succeeding Sinking Fund Installment. The portion of any such Sinking Fund Installment remaining after the deduction of any such amounts credited toward the same (or the original amount of any such Sinking Fund Installment if no such amounts shall have been credited toward the same) shall constitute the unsatisfied balance of such Sinking Fund Installment for the purpose of calculation of Sinking Fund Installments due on a future date.

(5) Moneys set aside from time to time with any Paying Agent for the purpose of paying the principal and Redemption Price (if any) of, and interest on, the Bonds shall be held in trust for the Holders of the Bonds in respect of which the same shall have been so set aside. Until so set aside, all moneys in the Special Redemption Fund shall be held in trust for the benefit of the Holders of all Bonds at the time outstanding, equally and ratably.

(6) When Bonds of a Series are refunded in whole or in part or are otherwise paid within the meaning of **Article XII**, moneys may be withdrawn from the Special Redemption Fund to pay or provide for the payment of such Bonds or refunded Bonds, as the case may be; *provided* that immediately after such withdrawal or transfer there shall be on credit to the Special Redemption Fund an amount equal to the Accrued Debt Service for the Bonds then Outstanding after taking into account such refunding or payment.

(B) Reserve Account. (1) If on the day preceding any principal or interest payment date, the amount in the Special Redemption Fund shall be less than Accrued Debt Service for all Bonds then Outstanding, the City shall pay out of the Reserve Account, to the extent moneys are required to be on deposit therein, to each Paying Agent for such Bonds the amount necessary to satisfy the deficiency for payment to the holders of such Bonds. Amounts so applied shall be derived first, from cash or Investments Securities on credit to the Reserve Account and second, from draws or demands on Support Facilities held as a part thereof, such draws or demands to be made *pro rata* among all such Support Facilities based on the respective available amounts thereunder and upon the terms and conditions set forth in such Support Facilities.

(2) Whenever the amounts on deposit in the Reserve Account shall exceed the Reserve Account Requirement, if any, the City shall withdraw the amount of such excess and deposit such excess to the credit of the Special Redemption Fund or the Revenue Fund, as the City shall determine.

(3) Whenever the amount (exclusive of Support Facilities) in the Reserve Account, if any, together with the amount in the Special Redemption Fund, is sufficient

to pay in full the principal or Redemption Price, if any, of and interest on all such Outstanding Bonds in accordance with their terms, the funds on credit to the Reserve Account shall be transferred to the Special Redemption Fund. Prior to said transfer, all Investment Securities held in the Reserve Account shall be liquidated by the City to the extent necessary to provide for timely payment of the principal or Redemption Price, if any, of and interest on such Bonds.

(4) When Bonds of a Series are refunded in whole or in part or are otherwise paid within the meaning of **Article XII**, moneys may be withdrawn from the Reserve Account to pay or provide for the payment of such Bonds or refunded Bonds, as the case may be; *provided* that immediately after such withdrawal or transfer there shall be on credit to the Reserve Account an amount equal to the Reserve Account Requirement, if any, for the Bonds then Outstanding after taking into account such refunding or payment.

Section 6.04. Subordinate Obligation Fund. Moneys on credit to the Subordinate Obligation Fund shall be applied by the City solely in accordance with the provisions of, and subject to the priorities and limitations and restrictions provided in, the resolution of the City securing or evidencing such Subordinate Obligations. Any moneys credited to the Subordinate Obligation Fund shall be immediately free and clear of the lien and pledge created by the Resolution.

Section 6.05. Rebate Fund. (A) If and to the extent required by the Code, an Authorized Officer shall periodically, at such times as may be required to comply with the Code, determine the amount of Rebatable Amount with respect to each Series of Tax-exempt Bonds and thereafter (i) transfer from any of the Funds and Accounts pledged or held hereunder other than the Special Redemption Fund or the Subordinate Obligation Fund and credit to the Rebate Fund, all or a portion of the Rebatable Amount with respect to such Series of Bonds and (ii) pay out of the Rebate Fund to the Department of the Treasury of the United States of America the amount, if any, required by the Code to be rebated thereto. Moneys in the Rebate Fund and the subaccounts therein are not available for the benefit of the Holders of the Bonds and are not pledged to the payment of the Bonds or the interest thereon.

(B) If and to the extent necessary to comply with any covenant established in a Series Resolution authorizing a Series of Bonds regarding maintaining the exclusion of interest on Tax-exempt Bonds from gross income for Federal income taxation purposes, the City may establish a subaccount in the Rebate Fund with respect to such Series of Bonds or provide for the establishment of such subaccount in such Series Resolution.

Section 6.06. Surplus Fund. (A) The City shall transfer from the Surplus Fund: (i) to the Special Redemption Fund and the Reserve Account therein the amount necessary (or all the moneys in the Surplus Fund if less than the amount necessary) to satisfy any deficiencies in payments to such Funds required by **Section 6.03**; (ii) in the event of any transfer of moneys from the Reserve Account to the Special Redemption Fund or to the Reserve Account the amount of any resulting deficiency in such Fund or Account; (iii) such amount as the City may, in its discretion, determine to set aside

in reserve for meeting the deficiencies referred to in clauses (i) through (ii) of this subsection (A); and (iv) *provided* that all transfers and reserves therefor referred to in clauses (i) through (iii) of this subsection (A) shall have heretofore been made, to the Subordinate Obligation Fund the amount, if any, necessary to satisfy any deficiency therein.

(B) Amounts in the Surplus Fund not required to meet a deficiency referred to in **subsection (A) of this Section 6.06** shall be applied to any of the following purposes:

- (1) the Costs of Improvements, or the provision of one or more reserves therefor;
- (2) the purchase at such price or prices as the City may deem advisable or redemption of any Bonds and expenses of such purchase or redemption at any time; or
- (3) for any other purpose authorized by the laws of the State of Wisconsin in connection with the Sewerage System, including reimbursement to the City of advances made by the City to the Sewerage System.

Section 6.07. Construction Fund. (A) As soon as practicable on the date of delivery of the Bonds of a Series, there shall be deposited in the Construction Fund the amount required to be deposited therein pursuant to the Series Resolution. In addition, the City shall deposit in the Construction Fund such moneys other than proceeds of the Bonds as the City shall determine to be proper or appropriate to pay the Costs of Improvements.

(B) The Series Resolution authorizing the issuance of any Series of Bonds (exclusive of Refunding Bonds) may create and establish one or more separate special series accounts (a "Series Account") in the Construction Fund, with such designation as may be appropriate. In the event any interest on such Bonds is to be capitalized from the proceeds of such Bonds, there shall be created in the Construction Fund a special series account (a "Series Interest Account") with such designation as may be appropriate.

(C) Moneys, including proceeds of the Bonds of a Series, which are credited to the Construction Fund or Series Account shall be applied to the payment of the Costs as shall be specified in the applicable Series Resolution. Any balance remaining in the Construction Fund or such Series Account upon completion of payment of such Costs may be used for any lawful purpose of the City; *provided* that the City shall have obtained an Opinion of Counsel that any such application will not impair the exemption from Federal income taxation of interest on any of the Tax-exempt Bonds.

(D) Moneys credited to a Series Interest Account shall be used for the purpose of paying interest on the Bonds of designated Series. On or before the fifth (5th) day preceding the end of the month next preceding the maturity of an installment

of interest on the Bonds for the payment of which moneys have been credited to a Series Interest Account, the City shall transfer from a Series Interest Account for credit to the Special Redemption Fund an amount which, together with any moneys theretofore held in the Special Redemption Fund, shall be sufficient to pay such next maturing installment of interest on such Bonds.

(E) Payments from the Construction Fund shall be as specified in the Series Resolution authorizing the issuance of a Series of Bonds.

(F) Moneys, including proceeds of the Bonds, in the Construction Fund, pending their application as provided in the Resolution and Series Resolution shall be subject to a prior and paramount lien and charge in favor of the Holders of the Bonds, and the Holders of the Bonds shall have a valid claim on such moneys for the further security of the Bonds until paid out or transferred as herein provided. In the event that there is an insufficiency in the Special Redemption Fund to pay Debt Service after all transfers, have been made pursuant to and in accordance with **Article VI**, the City shall transfer from the Construction Fund such amount (or all remaining amounts in such Construction Fund) as is deemed necessary by the Comptroller of the City for deposit in the Special Redemption Fund, which, together with the amounts then on credit to the Special Redemption Fund, is sufficient to pay Debt Service.

Section 6.08. Operation and Maintenance Fund. Amounts in the Operation and Maintenance Fund and any subaccount therein, pending their application, shall be subject to a prior and paramount lien and charge in favor of the Holders of the Bonds, and the Holders of the Bonds shall have a valid claim on such moneys for the further security of the Bonds until paid out or transferred as herein provided. In the event that there is an insufficiency in the Special Redemption Fund to pay Debt Service after all transfers have been made pursuant to and in accordance with **Article VI**, the City shall transfer from the Operation and Maintenance Fund such amount as is deemed necessary by the Comptroller of the City for deposit in the Special Redemption Fund, which, together with the amounts then on deposit in the Special Redemption Fund, is sufficient to pay Debt Service.

(B) Amounts in the Operation and Maintenance Fund shall be used to pay Operation and Maintenance Expenses.

Section 6.09. Investment of Funds. (A) Moneys in the Special Redemption Fund shall, to the fullest extent practicable and reasonable, be invested and reinvested solely in noncallable Investment Securities which shall mature or be subject to redemption at the option of the holder thereof on or prior to the respective dates when the moneys in the Special Redemption Fund will be required for the purposes intended. Moneys in the Reserve Account not required for immediate disbursement for the purpose for which the Reserve Account is created shall, to the fullest extent practicable and reasonable, be invested and reinvested solely in, and obligations deposited in the Reserve Account shall be, noncallable Investment Securities which shall mature or be available at par at or prior to three (3) years from the date of investment thereof.

(B) Moneys in the Revenue Fund not required for immediate disbursement for the purpose for which such Fund is created shall, to the fullest extent practicable and reasonable, be invested and reinvested to the extent allowed by law, solely in, and obligations deposited in such Fund shall be, Investment Securities which shall mature or be subject to redemption or payment at the option of the holder thereof, not later than such times as shall be necessary to provide moneys when needed to provide payments from such Fund.

(C) Moneys in the Construction Fund not required for immediate disbursement for the purposes for which said Fund is created shall, to the fullest extent practicable and reasonable, be invested and reinvested to the extent allowed by law, solely in, and obligations deposited in such Fund shall be, Investment Securities which shall mature or be subject to redemption or payment at par at the option of the holder thereof not later than such times as shall be necessary to provide moneys when needed to provide payments from such Fund or Account.

(D) To the extent permitted in the Resolution, all income received from the investment or reinvestment of moneys in the Funds and Accounts established hereunder shall be deposited in the respective Fund and Account from which such investments are made and applied as a credit against the next succeeding deposit or credit required to be made pursuant to **Section 6.02**; *provided, however*, that, except as to the Subordinate Obligation Fund, all or a portion of the income received from the investment or reinvestment of moneys in any such Fund and Account may be deposited in the Revenue Fund or the Construction Fund, including a Series Interest Account therein; and *provided, further, however*, that all income received from the investment or reinvestment of moneys in any Series Interest Account shall be credited to the Special Redemption Fund.

(E) Nothing in the Resolution shall prevent any Investment Securities acquired as investments of funds held under the Resolution from being issued or held in book-entry form.

(F) Neither the Comptroller of the City nor any Paying Agent shall be liable for any depreciation in value of any investments made by the City.

Section 6.10. Valuation and Sale of Investment Securities. (A) Investment Securities in any Fund or Account created under the provisions of the Resolution shall be deemed at all times to be part of such Fund or Account and any profit realized from the liquidation of such investment shall be credited to such Fund or Account and any loss resulting from liquidation of such investment shall be charged to such Fund or Account. Any net profits remaining after accumulating the sum of all profits realized and losses suffered from the liquidation of such investments in any Fund or Account during each semiannual period ending January 1 and July 1 shall be transferred or paid as provided in **subsection (D) of Section 6.09**.

(B) In computing the amount in any Fund or Account, Investment Securities therein shall be valued at cost or accreted value, whichever is lower, exclusive of

accrued interest. The City shall determine the value of Investment Securities held in any Fund or Account as frequently as it deems necessary, but not less often than annually.

(C) Except as otherwise provided in the Resolution, any Depositary shall use its best efforts to sell at the best price obtainable, or present for redemption, any Investment Securities held in any Fund or Account whenever it shall be necessary, and upon oral request (later confirmed in writing) from an Authorized Officer in order to provide moneys to meet any payment or transfer from such Fund or Account. No Depositary shall be liable or responsible for any loss resulting from any such investment, sale, liquidation or presentation for investment made in the manner provided above.

Section 6.11. Depositaries. (A) All moneys deposited under the provisions of the Resolution with the City or any Depositary shall be held in trust and applied only in accordance with the provisions of the Resolution, and each of the Funds and Accounts established by the Resolution shall be a trust fund.

(B) Each Depositary shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association having capital stock, surplus and undivided earnings of \$5,000,000 or more and willing and able to accept such office on reasonable and customary terms and authorized by law to act in accordance with the provisions of the Resolution.

ARTICLE VII

CONCERNING THE PAYING AGENTS AND DEPOSITARIES

Section 7.01. *Appointment of Depositaries; Acceptance of Duties.* The Comptroller of the City may appoint one or more Paying Agents and Depositaries as of the date of issuance and delivery of the first Series of Bonds and may at any time or from time to time appoint one or more other Paying Agents or other Depositaries having the qualifications set forth in **Section 6.11**; *provided* that notwithstanding **Section 6.11**, the Treasurer of the City may be designated Paying Agent and/or Depository. Each Paying Agent, other than the Treasurer of the City, and each Depository, other than the Treasurer of the City, shall signify its acceptance of the duties and obligations imposed upon it by the Resolution by executing and delivering to the City a written acceptance thereof.

Section 7.02. *Statement by Paying Agents and Depositaries Hereunder of Funds and Accounts and Other Matters.* Not more than sixty (60) days after the close of each Fiscal Year, each Paying Agent and Depository appointed hereunder shall furnish the City, a statement setting forth (to the extent applicable) in respect to such Fiscal Year: (i) all transactions relating to the receipt, disbursement, and application of all moneys received by such Paying Agent or Depository pursuant to the terms of the Resolution; (ii) the amount held by such Paying Agent or Depository at the end of such Fiscal Year on deposit in or to the credit of each Fund and Account provided for in the Resolution and the value of Investment Securities therein; (iii) a brief description of all obligations held by such Paying Agent or Depository as an investment of moneys in any Fund or Account hereunder as of the end of such Fiscal Year; (iv) the principal amount of Bonds purchased by such Paying Agent or Depository during such Fiscal Year from moneys available therefor in any Fund or Account pursuant to the provisions of the Resolution and the respective purchase price of such Bonds; (v) in the case of the Depository, the principal amount of Bonds redeemed or retired during such Fiscal Year and the Redemption Prices thereof, if any; and (vi) any other information which the City may reasonably request.

Section 7.03. *Paying Agents or Depositaries Hereunder Not Liable for Acts of the City or Other Paying Agents or Depositaries; No Representations by Paying Agent or Depository.* No Paying Agent or Depository hereunder shall be responsible or have any liability for any act of the City or of any other Paying Agent or Depository. No Paying Agent or Depository hereunder shall be responsible in any manner whatsoever for the correctness of the recitals, statements and representations in the Resolution or in the Bonds, all of which are made by the City solely. No Paying Agent or Depository hereunder makes any representation as to the validity of the Resolution or of the Bonds issued hereunder, and no Paying Agent or Depository hereunder shall incur any liability or responsibility in respect of any such matters.

Section 7.04. *Paying Agents and Depositaries May Buy, Hold, Sell or Deal in Bonds and Other Indebtedness of the City.* Each Paying Agent and each Depositary and its respective directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in any of the Bonds issued under the provisions of the Resolution and may join any action which any Holder of a Bond may be entitled to take, with like effect as if such Paying Agent or Depositary were not a Paying Agent or any Depositary, as the case may be, under the Resolution. Any Paying Agent or any Depositary may in good faith hold any other form of indebtedness of the City; own, accept or negotiate any drafts, bills of exchange, acceptances or obligations of the City, and make disbursements for the City and enter into any commercial or business arrangement therewith.

Section 7.05. *Reimbursement of Paying Agents and Depositaries for Fees, Expenses and Charges.* Each Paying Agent and each Depositary shall also be entitled to reasonable fees and to reimbursement by the City for all expenses and charges reasonably incurred by it in the performance of its duties hereunder. No Paying Agent or Depositary shall have a lien for such fees and reimbursement on the moneys pledged to secure the Bonds hereunder at any time held by it hereunder, prior to the lien or claim of the Holders of the Bonds on all such moneys.

ARTICLE VIII

COVENANTS TO SECURE BONDS

The City hereby covenants and agrees with the Holders of all Bonds issued pursuant to the Resolution, and to the extent provided in a Series Resolution, all Support Facility Providers, as follows:

Section 8.01. Maintenance of the Properties of the Sewerage System; Keeping the Sewerage System in Good Repair. The City shall: (i) maintain, preserve and keep, or cause to be maintained, preserved and kept, the properties of the Sewerage System and all additions and betterments thereto and extensions thereof, and every part and parcel thereof in good repair, working order and condition; (ii) from time to time make, or cause to be made, all necessary and proper repairs, renewals, replacements, additions, extensions and betterments thereto, so that at all times the business carried on in connection therewith shall be properly and advantageously conducted; and (iii) comply, or cause to be complied, with the terms and conditions of any permit or license for the Sewerage System or any part thereof issued by any Federal or State governmental agency or body and with any Federal or State law or regulation applicable to the construction, operation, maintenance and repair of the Sewerage System or requiring a license, permit or approval therefor.

Section 8.02. Rates and Charges. (A) The City shall fix, charge and collect such Sewerage Services Charges as shall be required in order that in each Fiscal Year the Net Revenues shall be not less than the Net Revenue Requirement for such Fiscal Year. The failure in any Fiscal Year to comply with the foregoing rate covenant in this subsection (A) shall not constitute an Event of Default if the City shall comply with subsection (B) of this **Section 8.02**.

(B) Prior to the end of each Fiscal Year the Commissioner of Public Works of the City shall complete a review of the financial condition of the Sewerage System for the purpose of estimating whether the Net Revenues for such Fiscal Year and for the next succeeding Fiscal Year will be sufficient to comply with the rate covenant in subsection (A) of this **Section 8.02** and shall by a Written Certificate of the City make a determination with respect thereto. Such review shall take into consideration the completion of any uncompleted Improvement and the issuance of future Series of Bonds if necessary to finance the completion of such Improvements. Such Written Certificate shall set forth a reasonably detailed statement of the actual and estimated Revenues, Operation and Maintenance Expenses, Aggregate Debt Service, and any other estimates or assumptions upon which such determination was based, and shall be filed with the City Clerk on or before July 1 in each year. If it is determined in such Written Certificate that the Revenues may not be so sufficient, the Commissioner of Public Works of the City shall forthwith make a study for the purpose of determining a schedule of Sewerage Service Charges which, in the opinion of the Commissioner of Public Works, will cause sufficient Revenues to be collected in the following Fiscal

Year to comply with such rate covenant in subsection (A) of this **Section 8.02** and will cause additional Revenues to be collected in such following and later Fiscal Years sufficient to eliminate the amount of any deficiency at the earliest practicable time, or the Commissioner of Public Works may elect to cause the Consulting Engineer to make such a study and render such opinion. The Common Council shall as promptly as practicable but no later than the one hundred twenty (120) days following such determination by the Commissioner of Public Works, or receipt of the Consulting Engineer's recommendation, adopt and place in effect a schedule of Sewerage Service Charges as so determined or recommended pursuant to this **Section 8.02**.

Section 8.03. Sale, Lease or Other Disposition of Properties of the Sewerage System. The properties of the Sewerage System shall not be sold, mortgaged, leased or otherwise disposed of except as provided in this Section.

(1) The properties of the Sewerage System may be sold, leased, or otherwise disposed of in their entirety if, simultaneously with such sale, lease or other disposition thereof, provision is made for the payment of all Bonds then Outstanding and such Bonds are no longer deemed Outstanding within the meaning of **Section 12.01**.

(2) Any portion of the properties of the Sewerage System may be sold, leased, or otherwise disposed of on such terms and conditions as may be determined by the City if the value of such portion of the properties as of the date of such sale, lease or disposition does not exceed five percent (5%) of the net book assets of the Sewerage System as of the last day of the preceding Fiscal Year as shown in the most recent audited financial statements of the City. Any part of the properties of the Sewerage System having a value as of the date of the sale, lease or disposition which exceeds five percent (5%) of the net book assets of the Sewerage System as of the last day of the preceding Fiscal Year as shown in the most recent audited financial statements of the City may be sold, leased, or otherwise disposed of if the Consulting Engineer shall certify to the City in writing that the terms and conditions of the proposed sale, lease or other disposition of any such properties are fair and reasonable, and that the estimated Revenues to be derived from the remaining properties of the Sewerage System, after taking into consideration the use by the City of the proceeds of such proposed sale, lease or other disposition of such properties, will be sufficient to enable the City to comply with all covenants and conditions of the Resolution. Proceeds of any sale, lease or other disposition of any portion of the properties of the Sewerage System pursuant to this paragraph shall be paid into the Special Redemption Fund and applied to the purchase or redemption of Bonds or into the Revenue Fund and applied by the City for the purpose of constructing extensions, betterments or improvements to the Sewerage System as the City shall determine.

(3) Buildings and any other portion of the works, plant and facilities of the Sewerage System and real and personal property comprising a part thereof, which, in the opinion of the Commissioner of Public Works, shall have

become unserviceable, inadequate, obsolete, worn out, or unfit to be used in the operation of the Sewerage System, or no longer necessary, material to, or useful in such operation may be sold, leased, or otherwise disposed of. Proceeds of any such sale, lease or other disposition of any portion of the properties of the Sewerage System pursuant to this paragraph shall be paid into the Revenue Fund.

(4) If permitted by the laws of the State, the City may transfer without consideration the properties comprising the Sewerage System to a public corporation or political subdivision of the State; *provided* such corporation or subdivision assumes all of the City's or the City's obligations and duties hereunder.

(5) In the event that any part of the properties of the Sewerage System shall be transferred from the City through the operation of law (including condemnation), any moneys received by the City as a result thereof shall be paid: (i) if such proceeds are not in excess of \$250,000, into the Revenue Fund; or (ii) if such proceeds are in excess of \$250,000: (a) into the Special Redemption Fund and or (b) into the Construction Fund and used to finance Improvements.

Section 8.04. Insurance. (A) Except as provided in subsection (C) of this Section 8.04, the City shall keep, or cause to be kept, the works, plants and facilities comprising the properties of the Sewerage System and the operations thereof insured to the extent available at reasonable cost with responsible insurers, with policies payable to the City, against risks of direct physical loss, damage to or destruction of the above-ground structures, and the equipment and contents therein, of the Sewerage System arising from accidents, casualties or negligence, and other causes customarily insured against, at least to the extent that similar insurance is usually carried by utilities operating like properties, including liability insurance and workman's compensation insurance; *provided, however,* that any time while any contractor engaged in constructing any part of the Sewerage System shall be fully responsible therefor, the City shall not be required to keep such part of the Sewerage System insured. All policies of insurance shall be for the benefit of the Holders of the Bonds and the City as their respective interests may appear.

(B) In the event of any loss or damage to the properties of the Sewerage System covered by insurance, the City will: (i) with respect to each such loss, promptly repair and reconstruct to the extent necessary to the proper conduct of the operations of the Sewerage System the lost or damaged portion thereof and shall apply the proceeds of any insurance policy or policies covering such loss or damage for that purpose to the extent required therefor, unless, in case of loss or damage involving \$250,000 or more, the City shall determine that such repair and reconstruction not be undertaken; and (ii) if the City shall not use the entire proceeds of such insurance to repair or reconstruct such lost or damaged property, the proceeds of such insurance policy or policies or any portion thereof not used for such repair or reconstruction, as the case may be, shall be paid into the Revenue Fund.

(C) If the City does not obtain insurance from responsible insurers as in subsection (A) of this Section 8.04 provided, and the City fails to carry insurance against any of the risks normally insured against by operators of facilities similar to the Sewerage System, it must secure the concurrence of an independent insurance consultant. In making its decision whether to concur, the independent insurance consultant shall: (i) make an estimate of the added financial risks, if any, assumed by the City as a result of the failure to insure; (ii) consider the availability of commercial insurance, the terms upon which such insurance is available and the costs of such available insurance, and the effect of such terms and costs upon the City's costs and charges for its services; and (iii) determine whether the added financial risk, if any, being assumed by the City is prudent in light of the savings to be realized in light of the general availability of insurance.

(D) Nothing contained herein shall prohibit or be deemed to prohibit the City from including insurance required by this **Section 8.04** from being maintained as part of a blanket insurance policy of the City.

Section 8.05. Consulting Engineer. The Common Council or the Commissioner of Public Works may from time to time retain and appoint, as Consulting Engineer, an independent consulting engineer or engineering firm or corporation having special skill, knowledge and experience in analyzing the operations of sewerage systems, preparing rate analyses, forecasting the loads and revenues of sewerage systems, preparing feasibility reports respecting the financing of sewerage systems and advising on the operation of sewerage facilities, who shall be available to advise the City, upon request, and to make such investigations and determinations as may be necessary from time to time under the provisions of the Resolution.

Section 8.06. Books of Account; Annual Audit. The City shall maintain and keep proper books of account relating to the Sewerage System and in accordance with generally accepted accounting principles. Within two hundred forty (240) days after the end of each Fiscal Year commencing with the Fiscal Year ending December 31, 2001, the City shall cause such books of account to be audited by an independent certified public accountant. The audit required by this Section may be part of a comprehensive audit of the City; *provided* that the Sewerage System in such audit is treated as an "enterprise fund" and the revenues and expenses of the Sewerage System are stated in a manner which permits identification by category of the sources and uses of the Revenues. A copy of each audit report shall be prepared in conformity with generally accepted accounting principles and shall be filed promptly with the Common Council.

Section 8.07. Punctual Payment of Bonds. The City shall duly and punctually pay, or cause to be paid, but only from the Revenues, income and other funds herein specified, the principal and Redemption Price (if any) of, and interest on, each and every Bond on the dates and at the places, and in the manner provided in the Bonds according to the true intent and meaning thereof, and the City shall faithfully do and

perform and at all times fully observe and keep any and all of its covenants, undertakings, stipulations and provisions contained in the Bonds and in the Resolution.

Section 8.08. *Payment of Taxes and Other Claims.* The City shall from time to time duly pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges, or payments in lieu thereof, lawfully imposed upon the properties of the Sewerage System (or any part thereof) or upon the Net Revenues or income received therefrom when the same shall become due, as well as all lawful claims for labor, material and supplies, which, if not paid, might become a lien or charge upon said properties or any part thereof, or upon the Revenues derived from the ownership or operation of the Sewerage System, or which might in any way impair the security of the Bonds, except any such assessments, charges or claims which the City shall in good faith contest as to validity.

Section 8.09. *Extension of Payment of Bonds.* The City will not, directly or indirectly, extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or claims for interest or by any other arrangement and in case the maturity of any of the Bonds or the time for payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default under the Resolution, to the benefit of the Resolution or to any payment out of any assets of the City or the funds (except funds held in trust for the payment of particular Bonds or claims for interest pursuant to the Resolution) held by the Paying Agents, except subject to the prior payment of the principal of all Bonds issued and Outstanding the maturity of which has not been extended and of such portion of the accrued interest on the Bonds as shall not be represented by such extended claims for interest. Nothing herein shall be deemed to limit the right of the City to issue Refunding Bonds as provided in the Resolution and such issuance shall not be deemed to constitute an extension of maturity of Bonds.

Section 8.10. *Sound Improvements and Extensions.* The City shall not expend any of the income, revenues, receipts, profits and other moneys derived by it from the ownership or operation of the Sewerage System for any renewals, replacements, additions, betterments and improvements to, or extensions of, the Sewerage System which, in the sole opinion of the Commissioner of Public Works, will not properly and advantageously contribute to the conduct of the business of the Sewerage System in an efficient and economical manner unless required to do so to permit the continued operation of the Sewerage System or to preserve or protect the Sewerage System.

Section 8.11. *Further Assurances.* The City shall, at any and all times, insofar as it may be authorized so to do, pass, make, do, execute, acknowledge and deliver all and every such further resolutions, indentures, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming any and all of the rights, Revenues and other funds hereby pledged or charged with or assigned to the payment of the Bonds

or intended so to be, or which the City or the City may hereafter become bound to pledge or charge or assign.

Section 8.12. *Protection of Security.* The City is duly authorized under all applicable law to create and issue the Bonds, to adopt the Resolution and to pledge the Revenues and other moneys, securities and funds purported to be pledged by the Resolution in the manner and to the extent provided in the Resolution. The Revenues and other moneys, securities and funds so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created by the Resolution, except as otherwise expressly provided herein, and all action on the part of the City to that end has been duly and validly taken. The Bonds are and will be valid and legally enforceable obligations of the City in accordance with their terms and the terms of the Resolution. The City shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Revenues and other moneys, securities and funds pledged under the Resolution and all the rights of the Bondholders hereto against all claims and demands of all persons whomsoever.

Section 8.13. *Exclusion of Interest on Tax-exempt Bonds for Federal Income Taxation Purposes.* This section shall apply only to Tax-exempt Bonds.

In order to maintain the exclusion from gross income for purposes of federal income taxation of interest on the Tax-exempt Bonds of any Series, the City shall comply with the provisions of the Code applicable to such Bonds, including without limitation the provisions of the Code relating to the computation of the yield on investments of the Gross Proceeds of such Bonds, reporting of earnings on the Gross Proceeds of such Bonds, and rebates of Rebatable Amount to the United States Treasury City. In furtherance of the foregoing, the City shall comply with the Tax Certificate relating to such Bonds or such instructions as may be delivered by Bond Counsel at the time such Bonds are issued as to compliance with the Code with respect to such Bonds, as such instructions may be amended from time to time, as a source of guidance for achieving compliance with the Code.

The City shall not take any action or fail to take any action with respect to the application and investment of Gross Proceeds of Tax-exempt Bonds or use, ownership or management of the Sewerage System or any facility or project thereof or any Improvement thereto which would cause a failure to comply with the provisions of Sections 103 and 141 to 150 of the Code, such covenant to be effective (i) throughout the term of such Bonds, and (ii) through the date that the final rebate, if any, must be made to the United States Treasury City in accordance with Section 148 of the Code with respect to such Bonds.

Notwithstanding any other provision hereof to the contrary, the City's failure to comply with the provisions of the Code applicable to the Tax-exempt Bonds of a Series shall not entitle the Holder of Bonds of any other Series, or any trustee acting on their behalf, to exercise any right or remedy provided to Holders of Bonds hereunder

based upon the City's or the City's failure to comply with the provisions of this Section or of the Code.

Section 8.14. Annual Budget. (A) As part of the City's annual budgeting process, the City shall prepare and include a budget for the Sewerage System for the ensuing Fiscal Year.

(B) Each budget shall: (i) set forth in reasonable detail amounts required for repair, replacement or reconstruction of the Sewerage System and major or extraordinary repairs, renewals or replacements of the Sewerage System, if any, for the period to be covered by such budget; (ii) specify the amounts to be set aside for the purposes set forth in clause (i) hereof and the amounts to be deposited in the Funds created under **Section 6.01** and the amounts to be maintained in the Revenue Fund for working capital and operating reserves for such purposes for such period, and (iii) project the amounts required for such purposes for the next five Fiscal Years in such format as the Commissioner of Public Works shall determine. A copy of each such report shall be filed and maintained in the records of the City.

ARTICLE IX

DEFAULTS; REMEDIES; BONDHOLDERS' COMMITTEE

Section 9.01. Events of Default. Each of the following events is hereby defined as and declared to be and shall constitute an "Event of Default":

(a) if payment of the principal and Redemption Price (if any) of any Bond, shall not punctually be made when due and payable, whether at the stated maturity thereof or upon proceedings for the redemption thereof (whether by voluntary redemption or a mandatory sinking fund redemption or otherwise);

(b) if payment of the interest on any Bond shall not punctually be made when due;

(c) if the provisions of any Series Resolution with respect to mandatory Sinking Fund Installment payments or the redemption of Term Bonds therefrom, as the case may be, shall not punctually be complied with at the time and in the manner specified in such Series Resolution;

(d) if the City shall fail to duly and punctually perform or observe any other of the covenants, agreements or conditions contained in the Resolution or in the Bonds, on the part of the City to be performed, and such failure shall continue for ninety (90) days after written notice thereof from the Holders of not less than twenty percent (20%) of the Bonds then Outstanding; *provided*, that if such failure shall be such that it cannot be corrected within such ninety (90) day period, it shall not constitute an Event of Default if corrective action is instituted within such period and diligently pursued until the failure is corrected; and

(e) if the City shall: (i) admit in writing its inability to pay its debts generally as they become due; or (ii) file a petition in bankruptcy or seeking a composition of indebtedness under the provisions of any Federal or state bankruptcy or similar law; or (iii) make an assignment for the benefit of its creditors; or (iv) file a petition or any answer seeking relief under the provisions of any Federal or state bankruptcy or similar law; or (v) consent to the appointment of a receiver of the whole or any substantial part of the Sewerage System; or (vi) consent to the assumption by any court of competent jurisdiction under the provisions of any other law for the relief or aid of debtors of custody or control of the City, or of the whole or any substantial part of the Sewerage System.

Section 9.02. Notice to Bondholders of Event of Default. Immediately after the occurrence of an Event of Default as defined in items (a) through (c) of **Section 9.01**, or within thirty (30) days after any Paying Agent knows of any other Event of Default, the Paying Agent or Paying Agents shall give notice of all such Events of Default to the Bondholders, all other Paying Agents and Support Facility Providers, and each rating agency rating the Bonds, in the manner provided in **Section 13.04**, unless such Events of Default shall have been cured before the giving of such notice.

Section 9.03. Acceleration of Bonds. If an Event of Default shall happen and shall not have been remedied, then and in every such case the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding, by notice in writing to the City, may declare the principal of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable. The right of the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding to make any such declaration, however, shall be subject to the condition that if, at any time after such declaration, but before the Bonds shall have matured by their terms, all overdue installments of interest upon the Bonds, together with interest on such overdue installments of interest to the extent permitted by law and all other sums then payable by the City under the Resolution (except the principal of, and interest accrued since the next preceding interest date on, the Bonds due and payable solely by virtue of such declaration) shall either be paid by or for the account of the City or provision satisfactory to the Holders of a majority in principal amount of the Bonds then Outstanding shall be made for such payment, and all defaults under the Bonds or under the Resolution (other than the payment of principal and interest due and payable solely by reason of such declaration) shall be cured or be secured to the satisfaction of the Holders of a majority in principal amount of the Bonds then Outstanding or provision deemed by such Holders of the Bonds to be adequate shall be made therefor, then and in every such case the Holders of a majority in principal amount of the Bonds then Outstanding, by written notice to the City, may rescind such declaration and annul such default in its entirety, but no such rescission shall extend to or affect any subsequent default or impair or exhaust any resulting right or power.

Section 9.04. Inspection of Books and Records; the City to Account as Trustee for Express Trust. (A) The City covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the City relating to the Sewerage System and all other records relating thereto shall at all times be subject to the inspection and use of the Holders of twenty-five percent (25%) in principal amount of the Bonds then Outstanding and of their respective agents and attorneys or of any committee therefor.

(B) The City covenants that if an Event of Default shall have happened and shall not have been remedied, the City will continue to account, as a trustee of an express trust, for all Revenues and other moneys, securities and funds pledged under the Resolution.

Section 9.05. Application of Revenues in an Event of Default. (A) During the continuance of an Event of Default as defined in items (a) through (c) of **Section 9.01** or of any other Event of Default as defined in **Section 9.01** resulting in an Event of Default as defined in items (a) through (c) of **Section 9.01**, the Revenues received by a receiver appointed pursuant to the provisions of **Section 9.06** as the result of the taking of possession of the business and properties of the Sewerage System, shall be applied by the receiver: first, to the payment of all necessary and proper Operation and Maintenance Expenses of the Sewerage System and all other proper disbursements or liabilities made or incurred by the receiver; second, to the then due and overdue payments into the Special Redemption Fund, including the making up of deficiencies therein; and last, for any lawful purpose in connection with the Sewerage System.

(B) In the event that at any time the funds held by the receiver pursuant to the preceding subsection (A) shall be insufficient for the payment of the principal and Redemption Price (if any) of, and interest then due on, the Bonds, such funds (other than funds held for the payment or redemption of particular Bonds and all Revenues and other moneys received or collected for the benefit or for the account of Holders of the Bonds by the receiver shall be applied as follows:

(1) Unless the principal of all of the Bonds shall have become due and payable,

First, to the payment of all necessary and proper Operation and Maintenance Expenses of the Sewerage System and all other proper disbursements or liabilities made or incurred by the receiver;

Second, to the payment to the persons entitled thereto of all installments of interest then due (including any interest on overdue principal) in the order of the maturity of such installments, earliest maturities first, and if the amounts available shall not be sufficient to pay in full any installment or installments of interest maturing on the same date, then to the payment thereof ratably, according to the amount due thereon, to the persons entitled thereto, without any discrimination or preference; and

Third, to the payment to the persons entitled thereto of the principal and premium, if any, due and unpaid upon the Bonds at the time of such payment without preference or priority of any Bond over any other Bonds, ratably, according to the amounts due respectively for principal and redemption premium, without any discrimination or preference.

(2) If the principal of all of the Bonds shall have become due and payable,

First, to the payment of all necessary and proper Operation and Maintenance Expenses of the Sewerage System and all other proper disbursements or liabilities made or incurred by the receiver;

Second, to the payment of the principal and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bonds, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference.

(C) Whenever moneys are to be applied pursuant to the foregoing paragraphs, such moneys shall be applied by the receiver at such times, and from time to time, as it in its sole discretion shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future.

(D) If and whenever all overdue installments of interest on all Bonds, together with the reasonable and proper charges, expenses, and liabilities of the Holders of the Bonds, their respective agents and attorneys, and all other sums payable by the City under the Resolution including the principal and Redemption Price (if any) of all Bonds which shall then be payable, shall either be paid in full by or for the account of the City or provision satisfactory to the receiver shall be made for such payment, and all defaults under the Resolution or the Bonds shall be made good and secured to the satisfaction of the receiver or provision deemed by the receiver to be adequate therefor, the receiver shall pay over to the City all of its moneys, securities, funds and Revenues then remaining unexpended in the hands of the Bondholders' Committee described in **Section 9.07**, control of the business and possession of the property of the City shall be restored to the City, and thereupon the City shall be restored to its former positions and rights under the Resolution, and all Revenues shall thereafter be applied as provided in **Article VI**. No such payment over to the City by the receiver or resumption of this application of Revenues as provided in **Article VI**, shall extend to or affect any subsequent default under the Resolution or impair any right consequent thereon.

Section 9.06. Suits at Law or Equity and Mandamus; Appointment of a Receiver. If an Event of Default shall happen and shall not have been remedied, then and in every such case, but subject to the provisions, limitations and conditions of **Sections 9.04 and 9.05** hereof so far as the remedies provided in said Sections are concerned, the Holder of any Bond at the time Outstanding shall be entitled, for the equal benefit and protection of all Holders of the Bonds similarly situated, to proceed, protect and enforce the rights vested in such Holder by the Resolution by such appropriate judicial proceeding as such Holder shall deem most effectual to protect and enforce any such right, either by suit in equity or by action of law, whether for the specific performance of any covenant or agreement contained in the Resolution, or in aid of the exercise of any power granted in the Resolution, or to enforce any other

legal or equitable right vested in the Holders of Bonds by the Resolution or by law; *provided, however*, that no judicial proceeding shall be brought seeking the appointment of a receiver to take possession of the Sewerage System or to manage, receive and apply the Revenues unless the Holders of not less than a majority in principal amount of the Bonds then Outstanding or a Bondholders' Committee representing the Holders of not less than a majority in principal amount of the Bonds then Outstanding shall have joined in or consented to such proceeding.

Section 9.07. Bondholders' Committee. If an Event of Default shall happen and shall not have been remedied, the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding may call a meeting of the Holders of Bonds for the purpose of electing a Bondholders' Committee. Such meeting shall be called and proceedings thereat shall be conducted as provided for other meetings of Bondholders pursuant to **Section 11.02**. At such meeting the Holders of not less than a majority of the principal amount of the Bonds then Outstanding must be present in person or by proxy in order to constitute a quorum for the transaction of business, less than a quorum, however, having power to adjourn from time to time without any notice other than that required by **subsection (D) of said Section 11.02**. A quorum being present at such meeting, the Bondholders present in person or by proxy may, by the votes cast by the Holders of a majority in principal amount of the Bonds so present in person or by proxy, elect one or more persons who may or may not be Bondholders to the Bondholders' Committee which shall act as trustee for all Bondholders. The Bondholders present in person or by proxy at said meeting, or at any adjourned meeting thereof, shall prescribe the manner in which the successors of the persons elected to the Bondholders' Committee at such Bondholders' meeting shall be elected or appointed, and may prescribe rules and regulations governing the exercise by the Bondholders' Committee of the power conferred upon it herein, and may provide for the termination of the existence of the Bondholders' Committee.

Section 9.08. Bondholders May Direct Proceedings. Anything contained in the Resolution to the contrary notwithstanding, the Holders of not less than a majority in principal amount of the Bonds at the time Outstanding shall be authorized and empowered (1) to direct the time, method, and place of conducting any proceeding for any remedy available to the Holders of the Bonds; or (2) on behalf of the Holders of the Bonds then Outstanding, to consent to the waiver of any Event of Default or its consequences. No waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 9.09. Remedies Not Exclusive; Waivers of Default; Abandonment of Proceedings; Adverse Determination. (A) No remedy by the terms of the Resolution conferred upon or reserved to the Holders of the Bonds is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder to the Holders of the Bonds or now or hereafter existing at law or in equity or by statute.

(B) No delay or omission of any Holder of Bonds to exercise any right or power arising upon the occurrence of a default hereunder, including an Event of Default, shall impair any right or power or shall be construed to be a waiver of any such default or to be an acquiescence therein. Every power and remedy given by this Article to the Holders of Bonds may be exercised from time to time and as often as may be deemed expedient by such Holders.

(C) In case the Holders of the Bonds or a Bondholders' Committee formed pursuant to **Section 9.07** shall have proceeded to enforce any right under the Resolution and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Holders of the Bonds or such Bondholders' Committee, then and in every such case the City and the Holders of the Bonds shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Holders of the Bonds shall continue as if no such proceedings had been taken.

ARTICLE X

AMENDING AND SUPPLEMENTING OF RESOLUTION

Section 10.01. Amending and Supplementing of Resolution Without Consent of Holders of Bonds. (A) The City, from time to time and at any time and without the consent or concurrence of any Holder of any Bond, may adopt a Series Resolution (i) for the purpose of providing for the issuance of Bonds pursuant to the provisions of **Article III** hereof; (ii) to make any changes, modifications, amendments or deletions hereto which may be required to permit the Resolution to be qualified under the Trust Indenture Act of 1939 of the United States of America; or (iii) if the rights of the Holders of the Bonds then Outstanding shall not be materially adversely affected thereby, a Supplemental Resolution (herein defined and referred to as a "Supplemental Resolution") for any one or more of the following purposes:

1. to make any changes or corrections in the Resolution as to which the City shall have been advised by counsel that the same are verbal corrections or changes or are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provision or omission or mistake or manifest error contained in the Resolution, or to insert in the Resolution such provisions clarifying matters or questions arising under the Resolution as are necessary or desirable;
2. to add additional covenants and agreements of the City for the purpose of further securing the payment of the Bonds;
3. to surrender any right, power or privilege reserved to or conferred upon the City by the terms of the Resolution;
4. to confirm as further assurance any lien, pledge or charge, or the subjection to any lien, pledge, or charge, created or to be created by the provisions of the Resolution;
5. to grant to, or to confer upon, the Holders of the Bonds any additional rights, remedies, powers, authority or security that lawfully may be granted to or conferred upon them; and
6. to modify in any other respect any of the provisions of the Resolution.

(B) Except for Series Resolutions authorizing the issuance of Bonds pursuant hereto, the City shall not adopt any Supplemental Resolution authorized by the foregoing provisions of this Section unless in the Opinion of Counsel (which opinion may be combined with the opinion required by **Section 10.04**) the adoption of such Supplemental Resolution is permitted by the foregoing provisions of this Section and the provisions of such Supplemental Resolution do not materially adversely affect the rights of the Holders of the Bonds then Outstanding.

(C) The City shall furnish a notice of each amendment or supplement made pursuant to this Section 10.01 and a copy of the Supplemental Resolution effecting such amendment or supplement to each Rating Agency which has rated the Bonds at least fifteen (15) days prior to the effective day of the Supplemental Resolution.

Section 10.02. Amendment of Resolution With Consent of Holders of Bonds.

(A) With the consent of the Holders of not less than a majority of the Bonds then Outstanding, the City from time to time and at any time may adopt a resolution amendatory hereof or supplemental hereto (herein also defined and referred to as a "Supplemental Resolution") for the purpose of adding any provisions to, or changing in any manner or eliminating any of the provisions of, the Resolution, or modifying or amending the rights and obligations of the City hereunder, or modifying or amending in any manner the rights of the Holders of the Bonds then Outstanding; *provided, however,* that without the specific consent of the Holder of each such Bond which would be affected thereby, no Supplemental Resolution amending or supplementing the provisions hereof shall: (1) change the fixed maturity date for the payment of the principal of any Bond or the dates for the payment of interest thereon or the terms of the redemption thereof, or reduce the principal amount of any Bond or the rate of interest thereon or the Redemption Price (or the redemption premium) payable upon the redemption or prepayment thereof; or (2) reduce the aforesaid percentage of Bonds, the Holders of which are required to consent to any Supplemental Resolution amending or supplementing the provisions of the Resolution; or (3) give to any Bond or Bonds any preference over any other Bond or Bonds secured hereby; or (4) authorize the creation of any pledge of the Revenues and other moneys pledged hereunder, prior, superior or equal to the pledge of and lien and charge thereon created herein for the payment of the Bonds except to the extent provided in **Article III** hereof; or (5) deprive any Holder of the Bonds in any material respect of the security afforded by the Resolution; *provided further, however,* that without the specific consents of the Holders of not less than a majority in principal amount of the Term Bonds then Outstanding and affected thereby, no Supplemental Resolution amending or supplementing the provisions of the Resolution shall (a) change the amount of any Sinking Fund Installments for the retirement of Term Bonds or the due dates of such installments or the terms for the purchase or redemption thereof from such installments, or (b) reduce the aforesaid percentage of Term Bonds, the Holders of which are required to consent to any such Supplemental Resolution. (Nothing in this paragraph contained, however, shall be construed as making necessary the approval of the Holders of the Bonds of the adoption of any Supplemental Resolution authorized by the provisions of **Section 10.01.**) A modification or amendment of the provisions of **Article VI** with respect to the Revenue Fund or the Special Redemption Fund or Reserve Account shall not be deemed a change in the terms of payments; *provided* that no such modification or amendment shall, except upon the consent of the Holders of all Bonds then outstanding affected thereby, reduce the amount or amounts required to be credited to the Special Redemption Fund or Reserve Account. If any Series of Bonds is insured as to payment of principal and interest, the insurer of such Series of Bonds shall be considered the Holder of such Bonds for purposes of this Section 10.02.

(B) The proof of the giving of any consent required by this Section and of the holding of Bonds for the purpose of giving consents shall be made in accordance with the provisions of **Article XI**. It shall not be necessary that the consents of the Holders of the Bonds approve the particular form of wording of the proposed amendment or supplement or of the Supplemental Resolution affecting such amendment or supplement, but it shall be sufficient if such consents approve the substance of the proposed amendment or supplement. After the Holders of the required percentage of Bonds shall have filed their consents to the amending or supplementing hereof pursuant to this Section, the City shall publish at least once a notice of such amending or supplementing hereof, in an Authorized Newspaper, and shall mail a copy of such notice by first class mail, postage prepaid, to each registered Holder of Bonds then Outstanding, at his address, if any, appearing upon the registry books, but failure to mail copies of said notice to any of said Holders shall not affect the validity of the Supplemental Resolution effecting such amendments or supplements or the consent thereto. (Nothing in this paragraph contained, however, shall be construed as requiring the giving of notice of any amending or supplementing of the Resolution authorized by **Section 10.01.**) A record, consisting of the papers required by this Section, shall be proof of the matters therein stated until the contrary is proved. No action or proceeding to set aside or invalidate such Supplemental Resolution or any of the proceedings for its adoption shall be instituted or maintained unless such action or proceeding is commenced within sixty (60) days after the publication of the notice required by this paragraph.

(C) The City shall furnish a notice of each amendment or supplement made pursuant to this **Section 10.02** and a copy of the Supplemental Resolution effecting such amendment or supplement to each Rating Agency which has rated the Bonds at least fifteen (15) days prior to the effective day of the Supplemental Resolution.

Section 10.03. Notation Upon Bonds; New Bonds Issued Upon Amendments.

Bonds delivered after the effective date of any action taken as provided in this Article may bear a notation as to such action, by endorsement or otherwise and in form approved by the City. In that case, upon demand of the Holder of any Bond Outstanding at such effective date and the presentation of such Holder's Bond for the purpose at the Principal Office of the Paying Agent or transfer agent hereunder for such Bond and at such additional offices, if any, as the City may select and designate for that purpose, a suitable notation shall be made on such Bond. If the City shall so determine, new Bonds, so modified as in the opinion of the City to conform to the amendments or supplements made pursuant to this Article, shall be prepared, executed and delivered, and upon demand of the Holder of any Bond then Outstanding shall be exchanged without cost to such Holder, for Bonds then Outstanding, upon surrender of such Outstanding Bonds.

Section 10.04. Effectiveness of Supplemental Resolution. Upon the adoption (pursuant to this Article and applicable law) by the City of any Supplemental Resolution amending or supplementing the provisions of the Resolution and the delivery to the Comptroller of the City of an Opinion of Counsel that such Supplemental Resolution

is in due form and has been duly adopted in accordance with the provisions hereof and applicable law and that the provisions thereof are valid and binding upon the City (upon which opinion the Comptroller of the City shall be fully protected in relying), or upon such later date as may be specified in such Supplemental Resolution, (i) the Resolution and the Bonds shall be modified and amended in accordance with such Supplemental Resolution, (ii) the respective rights, limitations of rights, obligations, duties and immunities under the Resolution of the City, or any Paying Agent and the Holders of the Bonds shall thereafter be determined, exercised and enforced under the Resolution subject in all respects to such modifications and amendments; and (iii) all of the terms and conditions of any such Supplemental Resolution shall be a part of the terms and conditions of the Bonds and of the Resolution for any and all purposes.

Section 10.05. *Supplemental Resolution Affecting Comptroller and Fiscal Services Hereunder and Paying Agents.* No Supplemental Resolution changing, amending or modifying any of the rights, duties and obligations of the Comptroller of the City or any Paying Agent may be adopted by the City or be consented to by the Holders of the Bonds without written consent of the Comptroller of the City or such Paying Agent.

ARTICLE XI

EXECUTION OF INSTRUMENTS BY HOLDERS OF BONDS; OWNERSHIP OF BONDS; MEETINGS OF HOLDERS OF BONDS; EXCLUSION OF BONDS OWNED BY THE CITY

Section 11.01. Execution of Requests, Directions and Consents and Other Instruments and Proof of Same; Ownership of Bonds and Proof of Same. (A) Any request, direction, consent or other instrument required by the Resolution to be signed or executed by Holders of Bonds may be signed or executed by such Holders in person or by an agent or agents duly appointed in writing, and may be in any number of concurrent writings of substantially similar tenor. Proof of the execution of any such request, direction, consent or other instrument or of a writing appointing any such agent, and of the holding or ownership of Bonds, shall be sufficient for any purpose of the Resolution and shall be conclusive in favor of the City, the Comptroller of the City and any Paying Agent hereunder with regard to any action taken by them under such request, direction, consent or other instrument or of a writing appointing any such agent, if made in the following manner: the fact and date of the execution by any person of any such request, direction, consent or other instrument in writing may be proved by the certificate of any notary public or other officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments of deeds to be recorded within such jurisdiction, to the effect that the person signing such request, direction, consent or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness to such execution.

(B) Nothing contained in this Section shall be construed as limiting the Comptroller of the City, in his discretion, to the proof above specified, it being intended that the Comptroller of the City in his discretion may accept any other evidence of the matters herein stated which to them may seem sufficient. Any request, direction, consent or vote of the Holder of any Bond shall bind and be conclusive upon the Holder of such Bond giving such request, direction or consent or casting such vote and upon every future Holder of the same Bond in respect of anything done or suffered to be done by the City or the Comptroller of the City or otherwise, or by the Holders of other Bonds, in pursuance of such request, direction, consent or vote, and whether or not such future Holder has knowledge of or information as to such request, direction, consent or vote; *provided* that any request, direction, consent or vote of the Holder of a Bond required by any of the provisions hereof may be revoked by the Holder giving such request, direction, consent or vote or by a subsequent Holder, if such revocation in writing is filed with the Comptroller of the City prior to the time when the request, direction, consent or vote of the percentage of the Holders of the Bonds required by such provision shall have been given and action taken by the City or the Comptroller of the City or otherwise, or by the Holders of other Bonds, under authority of such request, direction, consent or vote.

(C) Anything in the Resolution to the contrary notwithstanding, the City, the Comptroller of the City and any Paying Agent hereunder, may deem and treat the person in whose name any Bond shall at the time be registered on the Bond Registry

kept for that purpose pursuant to the Resolution, as the absolute owner of such Bond for all purposes whatsoever, including payment thereof, and neither the City, the Comptroller of the City nor any Paying Agent hereunder shall be affected by any notice to the contrary. The payment of or on account of principal to or upon the order of the person in whose name a Bond shall at the time be registered on said Bond Registry and the payment of interest to or upon the order of any person in whose name any Bond in fully registered form shall at the time be registered on said Bond Registry, shall be valid and effectual fully to satisfy and discharge all liability hereunder upon such Bond to the extent of the sum or sums so paid.

Section 11.02. Meetings of Holders of Bonds. (A) The City or the Holders or not less than twenty percent (20%) in principal amount of the Bonds then Outstanding may at any time call a meeting of the Holders of the Bonds for the purpose of the consenting to, the approving, the requesting or the directing, by the Holders of the Bonds, of any action required to be consented to or approved by them hereunder or which they may request or direct hereunder to be taken, or for the making by the Holders of the Bonds of any appointments they may make hereunder, or for the purpose of taking any other action which the Holders of the Bonds may take hereunder, or for any other purpose concerning the payment, security and enforcement of the Bonds. Every such meeting shall be held at such place as may be specified in the notice calling such meeting. Written notice of such meeting, stating the place and time of the meeting and in general terms the business to be submitted, shall be mailed to the Holders of Bonds whose names and addresses then appear upon the Bond Registry hereof, by the City or the Holders of the Bonds calling such meeting, not less than thirty (30) nor more than sixty (60) days before such meeting, and shall be published at least once on any day of the week, in an Authorized Newspaper, the date of such publication to be not less than thirty (30) days nor more than sixty (60) days preceding the meeting; *provided, however*, that the mailing of such notice shall in no case be a condition precedent to the validity of any action taken at any such meeting. Any meeting of the Holders of the Bonds shall, however, be valid without notice if the Holders of all Bonds then Outstanding are present in person or by proxy or if notice is waived before or within thirty (30) days after the meeting by those not so present.

(B) Attendance and voting by Holders of Bonds at meetings thereof may be in person or by proxy. Bondholders may, by an instrument in writing under their hands, appoint any person or persons with full power of substitution, as their proxy to attend and vote at any meeting for them.

(C) Persons named elected by the Holders of a majority in principal amount of the Bonds represented at the meeting in person or by proxy shall act as temporary Chairman and temporary Secretary of any meeting of Holders of Bonds. A permanent Chairman and a permanent Secretary of such meeting shall be elected by the Holders of a majority in principal amount of the Bonds represented at such meeting in person or by proxy. The Permanent Chairman of the meeting shall appoint two (2) Inspectors of Votes who shall count all votes cast at such meeting, except votes on the election of Chairman and Secretary as aforesaid, and who shall make and file with the Secretary of the meeting and the City their verified report of all such votes cast at the meeting.

(D) The Holders of the same principal amount of the Bonds required by other provisions hereof to consent to, approve, request, or direct any action proposed to be taken at a meeting of Holders of the Bonds, or required by other provisions hereof to make appointments proposed to be made at such meeting, or required by other provisions hereof to take any other action proposed to be taken at such meeting, must be present at such meeting in person or by proxy in order to constitute a quorum for the transaction of such business, less than a quorum, however, having power to adjourn the meeting from time to time without other notice of such adjournment than the announcement thereof at the meeting; *provided, however*, that if such meeting is adjourned by less than a quorum for more than ten (10) days, notice of such adjournment shall be published by the City at least five (5) days prior to the adjournment date of the meeting in an Authorized Newspaper.

(E) Any registered Holder of a Bond and any Holders of a certificate provided for in this Section shall be entitled in person or by proxy to attend the vote at such meeting as Holder of the Bond or Bonds registered or certified in his name without producing such Bond or Bonds (unless the Bond or Bonds described in any such certificate shall be registered in the name of or be produced by some other person at such meeting). Such persons and their proxies shall, if required, produce such proof of personal identity as shall be satisfactory to the Secretary of the meeting. All other persons seeking to attend or vote in such meeting must produce the Bond or Bonds claimed to be owned or represented at such meeting.

(F) All proxies presented at such meeting shall be delivered to the Inspectors of Votes and filed with the Secretary of the meeting. The right of a proxy for a Holder of a Bond to attend the meeting and act and vote thereat may be proved by a written proxy executed by such Holder as aforesaid.

(G) Officers or nominees of the City may be present or represented at any meeting of the Holders of the Bonds and take part therein, but shall not be entitled to vote thereat, except for such officers or nominees who are Holders of Bonds or proxies for Holders of Bonds.

(H) The vote at any such meeting of the Holder of any Bond, or such Holder's proxy, entitled to vote thereat shall be binding upon such Holder and upon every subsequent Holder of such Bond (whether or not such subsequent Holder has notice thereof).

(I) Any Supplemental Resolution authorizing the issuance of Bonds in uncertificated form may contain appropriate provisions supplemental to those in this Section governing the participation of the Holders of such Bonds in any meetings held pursuant to this Section.

Section 11.03. Exclusion of Bonds Held by or for the City and of Bonds No Longer Deemed Outstanding Hereunder. In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent, vote or waiver under the Resolution, any Bonds which are owned

by or on behalf of or for the account of the City and, except for the purpose of **Section 12.01** hereof, any Bonds which are deemed no longer Outstanding hereunder as provided in said **Section 12.01**, shall be disregarded and not included for the purpose of any such determination, and such Bonds shall not be entitled to vote upon, consent to or concur in any action provided in the Resolution. The City may require each Holder of a Bond or Bonds before his demand, request, direction, consent, vote or waiver shall be deemed effective, to reveal if the Bonds as to which such demand, request, direction, consent, vote or waiver is made, granted, cast or given are disqualified as provided in this Section.

ARTICLE XII

DEFEASANCE; MONEYS HELD FOR PAYMENT OF DEFEASED BONDS

Section 12.01. Discharge of Liens and Pledges; Bonds No Longer Outstanding and Deemed to be Paid Hereunder. (A) Except as otherwise provided in **Section 3.09** with regard to Option Bonds, the obligations of the City under the Resolution and the liens, pledges, charges, trusts, covenants and agreements of the City herein made or provided for, shall be fully discharged and satisfied as to any Bond and such Bond shall no longer be deemed to be Outstanding hereunder:

(i) when such Bond shall have been canceled, or shall have been surrendered for cancellation or is subject to cancellation, or shall have been purchased by or behalf of the City from moneys held under the Resolution; or

(ii) as to any Bond not canceled or surrendered for cancellation or subject to cancellation or so purchased, when payment of the principal and Redemption Price (if any) of such Bond, plus interest on such principal to the due date thereof (whether such due date be by reason of maturity or upon redemption or prepayment, or otherwise) either (a) shall have been made or caused to be made in accordance with the terms thereof, or (b) shall have been provided for by irrevocably depositing with the Paying Agent for such Bond, in trust, and irrevocably appropriating and setting aside exclusively for such payment, either (1) moneys sufficient to make such payment or (2) noncallable Refunded Municipal Obligations or noncallable Government Obligations, maturing as to principal and interest in such amount and at such times as will insure, together with any cash deposit, the availability of sufficient moneys to make such payment, whichever the City deems to be in its best interest, and, if the City determines it to be in its best interest as verified by an independent nationally recognized firm of certified public accountants in a report delivered to the City and the Comptroller of the City, and all necessary and proper fees, compensation and expenses of the Comptroller of the City and the Paying Agents pertaining to the Bond with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Comptroller of the City and said Paying Agents.

At such time as a Bond shall be deemed to be no longer Outstanding hereunder, as aforesaid, such Bond, except for the purposes of any payment from such moneys, Refunded Municipal Obligations or Government Obligations, shall no longer be secured by or entitled to the benefits of the Resolution.

(B) Notwithstanding the foregoing, in the case of a Bond which is to be redeemed or otherwise prepaid prior to its stated maturity, no deposit under clause (b) of subparagraph (ii) of subsection (A) above shall constitute such payment, discharge and satisfaction as aforesaid until such Bond shall have been irrevocably designated for redemption or prepayment and proper notice of such redemption or prepayment shall

have been previously given in accordance with **Section 5.03** or provision shall have been irrevocably made for the giving of such notice.

(C) All income from all Refunded Municipal Obligations and Government Obligations in the hands of the Paying Agents pursuant to this Section which is not required for the payment of the Bonds and interest and premium thereon with respect to which such moneys shall have been so deposited, shall be paid to the City for deposit in the Revenue Fund free and clear of any trust, lien, security interest, pledge or assignment securing any Bonds or otherwise existing under the Resolution.

(D) Notwithstanding any provision of any other section of the Resolution which may be contrary to the provision of this Section, all moneys, Refunded Municipal Obligations or Government Obligations set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds (including interest and premium thereof, if any) shall be applied to and used solely for the payment of the particular Bond (including interest and premium thereof, if any) with respect to which such moneys and Investment Securities have been so set aside in trust.

(E) Anything in **Article X** to the contrary notwithstanding, if moneys, Refunded Municipal Obligations or Government Obligations have been deposited or set aside with a Paying Agent pursuant to this Section for the payment of a specific Bond and such Bond shall be deemed to have been paid and to be no longer Outstanding hereunder as provided in this Section, but such Bond shall not have in fact been actually paid in full, no amendment to the provisions of this Article shall be made without the consent of the Holder of each Bond affected thereby.

(F) The City may at any time surrender to a Paying Agent for a Series of Bonds for cancellation by it any Bonds of such Series previously executed and delivered, which the City may have acquired in any manner whatever, and such Bonds upon such surrender for cancellation shall be deemed to be paid and no longer Outstanding hereunder.

Section 12.02. Bonds Not Presented for Payment When Due; Moneys Held for the Bonds After Due Date of Bonds. Subject to the provisions of the next sentence of this paragraph and to the extent permitted by law, if any Bond shall not be presented for payment when the principal thereof shall become due, whether at maturity or at the date fixed for the redemption thereof, or otherwise, and if moneys or Investment Securities shall at such due date be held by a Paying Agent therefor, in trust for that purpose sufficient and available to pay the principal and Redemption Price (if any) of such Bond, together with all interest due on such Bond to the due date thereof or to the date fixed for redemption thereof, all liability of the City for such payment shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of such Paying Agent, to hold said moneys or Refunded Municipal Obligations or Government Obligations without liability to the Holder of such Bond for interest thereon, in trust for the benefit of the Holder of such Bond who thereafter shall be restricted exclusively to said moneys or Refunded Municipal Obligations or Government Obligations for any claim of whatever nature of his part on or with respect

to said Bond, including any claim for the payment thereof. The City shall be entitled to receive annually from a Paying Agent all earnings on moneys or Refunded Municipal Obligations or Government Obligations held by such Paying Agent remaining unclaimed by the Holders of Bonds. Any such moneys or Refunded Municipal Obligations or Government Obligations held by any Paying Agent remaining unclaimed by the Holders of such Bonds for five (5) years after the principal of the respective Bonds with respect to which such moneys or Refunded Municipal Obligations or Government Obligations have been so set aside has become due and payable (whether at maturity or upon redemption or prepayment or otherwise) shall upon the written request of the City be paid to the City, against its written receipt therefor, and the Holders of such Bonds shall thereafter be entitled to look only to the City for payment thereof. Before being required to make any such payment to the City, such Paying Agents may, at the expense of the City, publish in an Authorized Newspaper, a notice, in such form as may be deemed appropriate by such Paying Agents, listing the Bonds so payable and not presented and stating that such moneys remain unclaimed and that after a date set forth therein any balance thereof then remaining will be returned to the City.

ARTICLE XIII

MISCELLANEOUS

Section 13.01. *Benefits of Resolution Limited to the City and Bondholders.*

With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from the Resolution or the Bonds is intended or should be construed to confer upon or give to any person other than the City and the Holders of the Bonds, any legal or equitable right, remedy or claim under or by reason of or in respect to the Resolution or any covenant, condition, stipulation, promise, agreement or provision herein contained. The Resolution and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the City and the Holders from time to time of the Bonds as herein and therein provided.

Section 13.02. *Resolution Binding Upon Successors or Assigns of the City.*

All the terms, provisions, conditions, covenants, warranties and agreements contained in the Resolution shall be binding upon the successors and assigns of the City and shall inure to the benefit of the Holders of the Bonds.

Section 13.03. *No Personal Liability.*

No member of the City and no officer or employee of the City shall be individually or personally liable for the payment of the principal and Redemption Price (if any) of, or interest on, any Bond. Nothing herein contained shall, however, relieve any such member, officer or employee from the performance of any duty provided or required by law.

Section 13.04. *Notice to Bondholders.*

Except as is otherwise provided in the Resolution any provision in the Resolution for the mailing of a notice or other paper to Holders of the Bonds shall be fully complied with if it is mailed by first class mail, postage prepaid, to each registered Holder of any of the Bonds then Outstanding at his address, if any, appearing upon the Bond Registry kept pursuant to **Article IV**.

Section 13.05. *Waiver of Notice.*

Whenever in the Resolution the giving of notice by mail, publication, or otherwise is required, the giving of such notice may be waived by the person entitled to receive such notice, and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 13.06. *Official Publications.*

Any publication, if any, to be made under the provisions of the Resolution in successive weeks may be made in each instance upon any business day of the week and need not be made on the same day of any succeeding week nor in the same newspaper for any or all of the successive

publications, but may be made in separate newspapers permitted by such provisions. If and whenever any publications are required under the provisions of the Resolution to be made in different cities, such publication may be made in separate newspapers or journals permitted by such provisions in each such city. In the event that any required publication in any newspaper cannot be accomplished by reason of suspension of publication or otherwise, notice shall be published in any other newspaper or otherwise given by general news release, wire service or other procedure determined by the City or the Paying Agent, in its discretion, to be in the best interest of the Holders of the Bonds.

Section 13.07. *Effect of Saturdays, Sundays and Legal Holidays.* Whenever the Resolution requires any action to be taken or payment to be made on a Saturday, Sunday or legal holiday, such action shall be taken or payment shall be made on the first business day occurring thereafter. Whenever in the Resolution the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday or legal holiday, such time shall continue to run until midnight on the next succeeding business day.

Section 13.08. *Partial Invalidity.* (A) If any one or more of the covenants or agreements or portions thereof provided in the Resolution on the part of the City or the Comptroller of the City or any Paying Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in the Resolution and the invalidity thereof shall in no way affect the validity of the other provisions of the Resolution or of the Bonds, but the Holders of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

(B) If any provisions of the Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 13.09. *Law and Place of Enforcement of the Resolution.* The Resolution shall be construed and interpreted in accordance with the laws of the State of Wisconsin and all suits and actions arising out of the Resolution shall be instituted in a court of competent jurisdiction in said State.

Section 13.10. *Effect of Article and Section Headings and Table of Contents.*

The heading or titles of the several articles and sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of the Resolution.

Section 13.11. *Repeal of Inconsistent Resolution.*

Any resolution of the City Council, and any part of any resolution, inconsistent with the Resolution is hereby repealed to the extent of such inconsistency.

Section 13.12. *Effectiveness of the Resolution.*

The Resolution shall become effective upon its adoption.