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CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
DEPARTMENT OF ADMINISTRATION AND FINANCE

October 19, 2016

Mr. Tim Scott
President, South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

Re: 2016 Waterworks Bond Refunding

Dear President Scott:

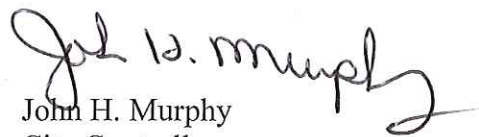
Attached please find an ordinance authorizing the refunding of outstanding Waterworks Revenue Bonds of 2000 and Waterworks Revenue Bonds of 2006. The principle amount outstanding on the bonds is currently \$3,788,431. It is anticipated that the refunding will reduce the interest rates paid on the bonds and will result in annual debt service savings to the Water Utility of approximately \$35,000 per year or a net present value savings of approximately \$250,000 over the remaining life of the bonds.

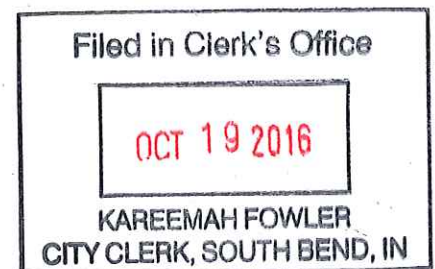
Bond Counsel Phil Faccenda and I will present this bill to the Common Council at the appropriate committee and council meetings. It is requested that this bill be filed for 1st reading on October 24, 2016 and 2nd reading, public hearing and 3rd reading scheduled for November 14, 2016.

If you have any further questions or need additional information, please let me know.

Thank you for your consideration.

Sincerely,


John H. Murphy
City Controller



OK
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ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA CONCERNING THE CURRENT REFUNDING OF OUTSTANDING WATERWORKS REVENUE BONDS OF 2000 AND 2006, EACH ISSUED TO FINANCE CONSTRUCTION OF IMPROVEMENTS TO THE MUNICIPAL WATERWORKS OF THE CITY OF SOUTH BEND, INDIANA; AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR SUCH PURPOSE IN THE PRINCIPAL AMOUNT NOT TO EXCEED THREE MILLION SEVEN HUNDRED TWENTY THOUSAND (\$3,720,000); ADDRESSING OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES IN ANTICIPATION OF BONDS; AND REPEALING ORDINANCES INCONSISTENT HEREWITH

STATEMENT OF PURPOSE AND INTENT

The City of South Bend, Indiana (the "City") has heretofore established, constructed and financed a municipal waterworks and now owns and operates said works pursuant to I.C. 8-1.5, as amended, and other applicable laws (together, the "Act").

The City's Municipal Waterworks Utility is subject to the authority and regulation of the Indiana Utility Regulatory Commission ("IURC") and has not withdrawn from the IURC's authority and regulation.

The Common Council of the City (the "Council") previously found in its Ordinance No. 9095-00 adopted by the Council on February 28, 2000 (the "2000 Ordinance") and in its Ordinance No. 9603-05 adopted by the Council on July 25, 2005 (the "2005 Ordinance"), that certain improvements to said works were necessary; and that plans, specifications and estimates had been prepared and filed by the engineers employed by the City for the acquisition and construction of said improvements (as described more fully on the respective Exhibit A to both the 2000 Ordinance and 2005 Ordinance) (collectively, the "Project"), which plans and specifications or other pertinent information were in a timely fashion submitted to all government authorities having jurisdiction thereover, particularly the Indiana Department of Environmental Management ("IDEM"), and were approved by the aforesaid government authorities.

Pursuant to the 2002 Ordinance, the City issued its "Waterworks Revenue Bonds of 2000" dated June 12, 2000 (the "2000 Bonds") originally issued in the amount of \$2,600,000, now outstanding in the amount of \$698,431, with a final maturity of January 1, 2020.

Pursuant to the 2005 Ordinance, the City issued its "Waterworks Revenue Bonds of 2006" dated June 1, 2006 (the "2006 Bonds") originally issued in the amount of \$4,710,000, now outstanding in the amount of \$3,090,000, with a final maturity of January 1, 2027.

The Council has determined, after being duly advised, (i) that the 2000 Bonds and the 2006 Bonds should be currently refunded to obtain a reduction in interest payments and effect a savings to the City (the "Refunding"); (ii) that the Refunding of the 2000 Bonds and 2006 Bonds, together with accrued interest thereon and including all costs related to the Refunding, cannot be provided for out of funds of the waterworks now on hand, and (iii) that the Refunding should be accomplished by the issuance of waterworks revenue bonds of the City.

The Council has determined, after being duly advised, that it is beneficial to currently refund the 2002 Bonds and 2006 Bonds to enable the City to obtain a reduction in interest payments and effect a savings to the City and hereby authorizes the same by issuance of the 2016 Bonds (described herein) under the provisions of the Act.

The Council finds that there are also now outstanding bonds issued on account of the works and payable out of the revenues therefrom designated as the "Waterworks Refunding Revenue Bonds of 2012B" dated November 29, 2012 (the "2012B Bonds"), originally issued in the amount of \$3,785,000 authorized by Ordinance No. 10190-12 adopted by the Council on October 8, 2012 (the "2012B Ordinance"), now outstanding in the amount of \$2,745,000.

The Council finds that there are also now outstanding bonds issued on account of the works and payable out of the revenues therefrom designated as the "Waterworks Revenue Bonds of 2012" dated June 21, 2012 (the "2012A Bonds"), originally issued in the amount of \$8,300,000 authorized by Ordinance No. 10134-11 adopted by the Council on November 28, 2011 (the "2012A Ordinance"), now outstanding in the amount of \$7,275,000.

The Council finds that there are now outstanding bonds issued on account of the works and payable out of the revenues therefrom designated as the "Waterworks Revenue Bonds of 2009, Series B" dated November 19, 2009 (the "2009B Bonds") originally issued in the amount of \$5,380,000 authorized by Ordinance No. 9937-09 adopted by the Council on June 8, 2009 (the "2009 Ordinance") (the 2012B Ordinance, 2012A Ordinance and 2009 Ordinance, collectively, the "Prior Ordinances"), now outstanding in the amount of \$4,555,000.

The Council finds that there are now outstanding bonds issued on account of the works and payable out of the revenues therefrom designated as the "Waterworks Revenue Bonds of 2009, Series A" dated September 1, 2009 (the "2009A Bonds") (the 2012B, 2012A Bonds, the 2009B Bonds, and the 2009A Bonds, together, the "Prior Bonds") originally issued in the amount of \$429,000 authorized by the 2009 Ordinance, now outstanding in the amount of \$352,795.

The Prior Bonds constitute a first charge upon the Net Revenues (as hereinafter defined).

The Prior Ordinances provide that the City may authorize and issue additional bonds payable out of the Net Revenues ranking on parity with the Parity Bonds (as hereinafter defined) for the purpose of financing the cost of future additions, extensions and improvements to the works, or to provide for a complete or partial refunding of bonds subject to the provisions of the Prior Ordinances. The conditions precedent to the issuance of additional parity bonds set forth in the Prior Ordinances, as described above, have been satisfied, subject to approval by the State of Indiana (the "State").

The City desires to authorize the issuance of a bond anticipation note or notes hereunder, if necessary, payable from the proceeds of the revenue bonds authorized herein (the "BANs"), and to authorize the refunding of said BANs, if issued.

The Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of revenue bonds and BANs have been complied with in accordance with the applicable provisions of the Act.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AS FOLLOWS:

SECTION 1. Refunding the 2002 Bonds and 2006 Bonds. The Council hereby determines, after being duly advised, that it is beneficial to currently refund the 2002 Bonds and 2006 Bonds (together, the "Refunded Bonds") to enable the City to obtain a reduction in interest payments and effect a savings to the City. The City may proceed with the current refunding of the Refunded Bonds the costs of which are not expected to exceed \$3,720,000, without further authorization from the Council. The terms "works" and "utility" and other like terms where used in this Ordinance shall be construed to mean and include all structures and property of the City's waterworks utility. The Project has been constructed in accordance with the plans and specifications heretofore mentioned, which plans and specifications have previously been approved. All or a portion of the cost of the Refunding will be paid with the proceeds of the 2016 Bonds to be issued pursuant to the provisions of this Ordinance and the Act. The City may also use other legally available funds on hand to pay for the remainder of the cost of the Refunding the Refunded Bonds.

SECTION 2. Authorization of Obligations.The City shall issue its "Waterworks Refunding Revenue Bonds of 2016" or such other designation as the Executive (as defined below) or the Fiscal Officer (as defined below) shall determine at the time of issuance of any series of bonds (the "2016 Bonds"), in one or more series (as designated by the City, a "Series"), in an original principal amount not to exceed Three Million Seven Hundred Twenty Thousand Dollars (\$3,720,000) (the "Authorized Amount"), as negotiable, fully registered bonds, for the purpose of procuring funds to be applied to the costs of the Refunding, and all incidental expenses incurred in connection therewith (all of which are deemed to be a part of the Refunding), and the costs of selling and issuing the 2016 Bonds and funding a debt service reserve as described herein. The City reasonably expects to reimburse expenditures for the Refunding with the proceeds of the 2016 Bonds and this constitutes a declaration of official intent to reimburse expenditures under Treas. Reg. 1.150-2(e) and Indiana Code 5-1-14-6(c). The 2016 Bonds shall rank on parity for all purposes with the Prior Bonds.

The 2016 Bonds shall be issued in denominations of Five Thousand Dollars (\$5,000) or any integral multiple thereof, or if issued as a private placement in denominations of \$100,000 with integral multiples of \$1,000 thereafter, numbered consecutively from 1 upward, and dated the date of delivery. The 2016 Bonds shall bear interest at a rate or rates not exceeding four percent (4%) per annum, and interest shall be payable semiannually on January 1 and July 1 in each year, beginning not earlier than July 1, 2017, with the beginning date of interest payments being finally determined by the Mayor as the executive of the City (the "Executive") and the Controller as the fiscal officer of the City (the "Fiscal Officer"), with the advice of the

City's financial advisor, as evidenced by delivery of the executed initial issue of the 2016 Bonds to the Registrar for authentication. Interest on the BANs and the 2016 Bonds shall be calculated according to a 360-day calendar year containing twelve 30-day months. The 2016 Bonds shall mature on January 1 of each year, beginning not earlier than January 1, 2018, in the year and in such amounts as is deemed appropriate by the Executive and the Fiscal Officer, with the advice of the City's financial advisor, as evidenced by delivery of the executed initial issue of the 2016 Bonds to the Registrar for authentication, and over a period ending not later than January 1, 2027.

All or a portion of the 2016 Bonds may be aggregated into and issued as one or more term bonds. The term bonds will be subject to mandatory sinking fund redemption with sinking fund payments and final maturities corresponding to the serial maturities described above. Sinking fund payments shall be applied to retire a portion of the term bonds as though it were a redemption of serial bonds and, if more than one term bond of any maturity is outstanding, redemption of such maturity shall be made by lot. Sinking fund redemption payments shall be made in a principal amount equal to such serial maturities, plus accrued interest to the redemption date, but without premium or penalty. For all purposes of this Ordinance, such mandatory sinking fund redemption payments shall be deemed to be required payments of principal which mature on the date of such sinking fund payments. Appropriate changes shall be made in the definitive form of 2016 Bonds, relative to the form of 2016 Bonds contained in this Ordinance, to reflect any mandatory sinking fund redemption terms.

(b) The City shall issue, if necessary, BANs for the purpose of procuring interim financing for the Refunding. Any such issuance shall be in accord with the provisions of Section 25 of this Ordinance.

SECTION 3. Pledge of Net Revenues; Payment of Principal and Interest. The 2016 Bonds, and any bonds ranking on a parity therewith, including the Prior Bonds, as to principal, premium, if any, and interest, shall be payable solely from and are secured by an irrevocable pledge of and shall constitute a charge upon all the Net Revenues (as defined in the following sentence) of the works. The term "Net Revenues," as used herein, shall be defined as the gross revenues of the works after deduction only for the payment of the reasonable expenses of operation, repair and maintenance of the works, and which reasonable expenses of operation, repair and maintenance specifically do not include any rates or charges in lieu of taxes made and collected by the works and transferred to the City in accordance with the Act (the "PILOT Payment"). The City specifically subordinates its right to receive any PILOT Payment to the rights of the holders of the 2016 Bonds, and any Parity Bonds, including the Prior Bonds, to receive payment of the principal, premium, if any, and interest, payable on such bonds. PILOT Payments shall be made not more frequently than semiannually on January 2 and July 2 and may be made only if all monthly deposits required by this Ordinance are current and held as of such dates in the Operation and Maintenance Fund and the Sinking Fund (each as defined herein). Other than PILOT Payments and normal and regular pro rata payments to the City for shared expenses charged by the City to its various departments, no moneys derived from the revenues of the works shall be transferred to the General Fund of the City or be used for any purpose not connected with the works.

All payments of interest on the 2016 Bonds shall be paid by check mailed one business day prior to the interest payment date to the registered owners thereof as of the fifteenth (15th) day of the month preceding the interest payment date (the "Record Date") at the addresses as they appear on the registration and transfer books of the City kept for that purpose by the Registrar (the "Registration Record") or at such other address as is provided to the Paying Agent in writing by such registered owner. Each registered owner of \$1,000,000 or more in principal amount of 2016 Bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Paying Agent before the Record Date for any payment. All principal payments and premium payments, if any, on the 2016 Bonds shall be made upon surrender thereof at the principal office of the Paying Agent, in any U.S. coin or currency which on the date of such payment shall be legal tender for the payment of public and private debts, or in the case of a registered owner of \$1,000,000 or more in principal amount of 2016 Bonds, by wire transfer on the due date upon written direction of such owner provided at least fifteen (15) days prior to the maturity date or redemption date.

Interest on 2016 Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date thereof unless such 2016 Bonds are authenticated after the Record Date for an interest payment date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless authenticated on or before the Record Date for the first interest payment date, in which case they shall bear interest from the original date, until the principal shall be fully paid.

SECTION 4. Transfer and Exchange of Bonds. Each 2016 Bond shall be transferable or exchangeable only upon the Registration Record, by the registered owner thereof in writing, or by the registered owner's attorney duly authorized in writing, upon surrender of such 2016 Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or such attorney, and thereupon a new fully registered 2016 Bond or Bonds in the same aggregate principal amount, and of the same maturity, shall be executed and delivered in the names of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City except for any tax or governmental charge required to be paid with respect to the transfer or exchange, which taxes or governmental charges are payable by the person requesting such transfer or exchange. The City, the Registrar and the Paying Agent may treat and consider the persons in whose names such 2016 Bonds are registered as the absolute owners thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest and premium, if any, due thereon.

In the event any 2016 Bond is mutilated, lost, stolen or destroyed, the City may execute and the Registrar may authenticate a new bond of like date, maturity and denomination as that mutilated, lost, stolen or destroyed, which new bond shall be marked in a manner to distinguish it from the bond for which it was issued, provided that, in the case of any mutilated bond, such mutilated bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed bond there shall be first furnished to the Registrar evidence of such loss, theft or destruction satisfactory to the Fiscal Officer and the Registrar, together with indemnity satisfactory to them. In the event any such bond shall have matured, instead of issuing a duplicate bond, the City and the Registrar may, upon receiving indemnity satisfactory to them, pay the same without surrender thereof. The City and the Registrar may charge the owner of

such 2016 Bond with their reasonable fees and expenses in this connection. Any 2016 Bond issued pursuant to this paragraph shall be deemed an original, substitute contractual obligation of the City, whether or not the lost, stolen or destroyed 2016 Bond shall be found at any time, and shall be entitled to all the benefits of this Ordinance, equally and proportionately with any and all other 2016 Bonds issued hereunder.

SECTION 5. Registrar and Paying Agent. The Fiscal Officer is hereby authorized to appoint a qualified financial institution to serve as Registrar and Paying Agent for the 2016 Bonds (together with any successor, the "Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the 2016 Bonds, and shall keep and maintain the Registration Record at its office. The Fiscal Officer is hereby authorized to enter into such agreements or understandings with such institution as will enable the institution to perform the services required of a Registrar and Paying Agent. The Fiscal Officer is further authorized to pay such fees and the institution may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Sinking Fund established to pay the principal of and interest on the 2016 Bonds as fiscal agency charges.

The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent by giving thirty (30) days written notice to the City and by first-class mail to each registered owner of the 2016 Bonds then outstanding, and such resignation will take effect at the end of such thirty (30) days or upon the earlier appointment of a successor Registrar and Paying Agent by the City. Such notice to the City may be served personally or sent by first-class or registered mail. The Registrar and Paying Agent may be removed at any time as Registrar and Paying Agent by the City, in which event the City may appoint a successor Registrar and Paying Agent. The City shall notify each registered owner of the 2016 Bonds then outstanding by first-class mail of the removal of the Registrar and Paying Agent. Notices to the registered owners of the 2016 Bonds shall be deemed to be given when mailed by first-class mail to the addresses of such registered owners as they appear on the Registration Record. Any predecessor Registrar and Paying Agent shall deliver all the 2016 Bonds, cash or investments related thereto in its possession and the Registration Record to the successor Registrar and Paying Agent.

As to the BANs, the Fiscal Officer shall serve as Registrar and Paying Agent and is hereby charged with the duties of Registrar and Paying Agent.

SECTION 6. Terms of Redemption. The 2016 Bonds may be made redeemable at the option of the City on thirty (30) days' notice, in whole or in part, in any order of maturities selected by the City and by lot within a maturity, on dates, not earlier than July 1, 2024, and without premium, and containing such other terms as finally determined by the Executive with the advice of the City's financial advisor, as evidenced by delivery of the executed initial issue of the 2016 Bonds to the Registrar for authentication.

Notice of redemption shall be mailed by first-class mail to the address of each registered owner of a 2016 Bond to be redeemed as shown on the Registration Record not more than sixty (60) days and not less than thirty (30) days prior to the date fixed for redemption except to the extent such redemption notice is waived by owners of 2016 Bonds redeemed, provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any 2016 Bond shall not affect the validity of any proceedings for the redemption of any other 2016 Bonds. The

notice shall specify the date and place of redemption, the redemption price and the CUSIP numbers of the 2016 Bonds called for redemption. The place of redemption may be determined by the City. Interest on the 2016 Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named, and thereafter, such 2016 Bonds shall no longer be protected by this Ordinance and shall not be deemed to be outstanding hereunder, and the holders thereof shall have the right only to receive the redemption price.

All 2016 Bonds which have been redeemed shall be canceled and shall not be reissued; provided, however, that one or more new registered bonds shall be issued for the unredeemed portion of any 2016 Bond without charge to the holder thereof.

No later than the date fixed for redemption, funds shall be deposited with the Paying Agent or another paying agent to pay, and such agent is hereby authorized and directed to apply such funds to the payment of, the 2016 Bonds or portions thereof called for redemption, including accrued interest thereon to the redemption date. No payment shall be made upon any 2016 Bond or portion thereof called for redemption until such 2016 Bond shall have been delivered for payment or cancellation or the Registrar shall have received the items required by this Ordinance with respect to any mutilated, lost, stolen or destroyed bond.

The BANs are prepayable by the City, in whole or in part, at any time upon seven (7) days' notice to the owner of the BANs, without any premium.

SECTION 7. Execution and Negotiability. The 2016 Bonds shall be signed in the name of the City by the manual or facsimile signature of the Executive and attested by the manual or facsimile signature of the City Clerk, who also shall affix the seal of the City manually or shall have the seal imprinted or impressed thereon by facsimile or other means. In case any officer whose signature or facsimile signature appears thereon shall cease to be such officer before the delivery of the 2016 Bonds, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until such delivery.

The 2016 Bonds shall also be authenticated by the manual signature of the Registrar, and no 2016 Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

The 2016 Bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein.

SECTION 8. Authorization for Book-Entry System. The 2016 Bonds may, in compliance with all applicable laws, initially be issued and held in book-entry form on the books of the central depository system, The Depository Trust Company, its successors, or any successor central depository system appointed by the City from time to time (the "Clearing Agency"), without physical distribution of bonds to the purchasers. The following provisions of this Section apply in such event.

One definitive 2016 Bond of each maturity shall be delivered to the Clearing Agency (or its agent) and held in its custody. The City and Registrar may, in connection herewith, do or perform or cause to be done or performed any acts or things not adverse to the rights of the

holders of the 2016 Bonds as are necessary or appropriate to accomplish or recognize such book-entry form 2016 Bonds.

During any time that the 2016 Bonds are held in book-entry form on the books of a Clearing Agency, (1) any such 2016 Bond may be registered upon Registration Record in the name of such Clearing Agency, or any nominee thereof, including Cede & Co.; (2) the Clearing Agency in whose name such 2016 Bond is so registered shall be, and the City and the Registrar and Paying Agent may deem and treat such Clearing Agency as, the absolute owner and holder of such 2016 Bond for all purposes of this Ordinance, including, without limitation, the receiving of payment of the principal of and interest and premium, if any, on such 2016 Bond, the receiving of notice and the giving of consent; (3) neither the City nor the Registrar or Paying Agent shall have any responsibility or obligation hereunder to any direct or indirect participant, within the meaning of Section 17A of the Securities Exchange Act of 1934, as amended, of such Clearing Agency, or any person on behalf of which, or otherwise in respect of which, any such participant holds any interest in any 2016 Bond, including, without limitation, any responsibility or obligation hereunder to maintain accurate records of any interest in any 2016 Bond or any responsibility or obligation hereunder with respect to the receiving of payment of principal of or interest or premium, if any, on any 2016 Bond, the receiving of notice or the giving of consent; and (4) the Clearing Agency is not required to present any 2016 Bond called for partial redemption, if any, prior to receiving payment so long as the Registrar and Paying Agent and the Clearing Agency have agreed to the method for noting such partial redemption.

If either the City receives notice from the Clearing Agency which is currently the registered owner of the 2016 Bonds to the effect that such Clearing Agency is unable or unwilling to discharge its responsibility as a Clearing Agency for the 2016 Bonds, or the City elects to discontinue its use of such Clearing Agency as a Clearing Agency for the 2016 Bonds, then the City and the Registrar and Paying Agent each shall do or perform or cause to be done or performed all acts or things, not adverse to the rights of the holders of the 2016 Bonds, as are necessary or appropriate to discontinue use of such Clearing Agency as a Clearing Agency for the 2016 Bonds and to transfer the ownership of each of the 2016 Bonds to such person or persons, including any other Clearing Agency, as the holder of the 2016 Bonds may direct in accordance with this Ordinance. Any expenses of such discontinuance and transfer, including expenses of printing new certificates to evidence the 2016 Bonds, shall be paid by the City.

During any time that the 2016 Bonds are held in book-entry form on the books of a Clearing Agency, the Registrar shall be entitled to request and rely upon a certificate or other written representation from the Clearing Agency or any participant or indirect participant with respect to the identity of any beneficial owner of the 2016 Bonds as of a record date selected by the Registrar. For purposes of determining whether the consent, advice, direction or demand of a registered owner of a 2016 Bond has been obtained, the Registrar shall be entitled to treat the beneficial owners of the 2016 Bonds as the bondholders and any consent, request, direction, approval, objection or other instrument of such beneficial owner may be obtained in the fashion described in this Ordinance.

During any time that the 2016 Bonds are held in book-entry form on the books of a Clearing Agency, the Executive, the Fiscal Officer and/or the Registrar are authorized to execute and deliver a Letter of Representations agreement with the Clearing Agency, or a Blanket Issuer

Letter of Representations, and the provisions of any such Letter of Representations or any successor agreement shall control on the matters set forth therein. The Registrar, by accepting the duties of Registrar under this Ordinance, agrees that it will (i) undertake the duties of agent required thereby and that those duties to be undertaken by either the agent or the issuer shall be the responsibility of the Registrar, and (ii) comply with all requirements of the Clearing Agency, including without limitation same day funds settlement payment procedures. Further, during any time that the 2016 Bonds are held in book-entry form, the provisions of Section 8 of this Ordinance shall control over conflicting provisions in any other section of this Ordinance.

SECTION 9. Form of 2016 Bonds. The form and tenor of the 2016 Bonds shall be substantially as follows, all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery:

R-__

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF ST. JOSEPH

CITY OF SOUTH BEND, INDIANA

WATERWORKS REVENUE REFUNDING BOND OF 20[_____]

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Date</u>	<u>Authentication Date</u>	<u>CUSIP No.</u>
	_____, 20__	_____, 2016	_____, 2016	_____

REGISTERED OWNER: _____

PRINCIPAL SUM: _____ Dollars (\$_____)

The City of South Bend, in St. Joseph, County, State of Indiana (the "City"), for value received, hereby promises to pay to the Registered Owner set forth above, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above on the Maturity Date set forth above (unless this bond be subject to and be called for redemption prior to maturity as hereafter provided), and to pay interest thereon until the Principal Sum shall be fully paid at the Interest Rate per annum specified above from the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this bond is authenticated after the fifteenth day of the month preceding the interest payment date (the "Record Date") and on or before such interest payment date in which case it shall bear interest from such interest payment date, or unless this bond is authenticated on or before _____, 20__, in which case it shall bear interest from the Original Date, which interest is payable semiannually on

January 1 and July 1 of each year, beginning on _____ 1, 20___. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

[The principal of and premium, if any, on this bond are payable at the principal office of _____ (the "Registrar" or "Paying Agent"), in _____, Indiana.] All payments of interest on this bond shall be paid by check mailed one business day prior to the interest payment date to the Registered Owner as of the Record Date at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the Registered Owner. Each Registered Owner of \$1,000,000 or more in principal amount of bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Paying Agent before the Record Date for any payment. All payments of principal of, and premium, if any, on this bond shall be made upon surrender thereof at the principal office of the Paying Agent, in any U.S. coin or currency which on the date of such payment shall be legal tender for the payment of public and private debts, or in the case of a Registered Owner of \$1,000,000 or more in principal amount of the Bonds (as hereinafter defined), by wire transfer on the due date upon written direction of such owner provided at least fifteen (15) days prior to the maturity date or redemption date.

THE CITY SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE HEREINAFTER DESCRIBED SPECIAL FUND, AND NEITHER THIS BOND NOR THE ISSUE OF WHICH IT IS A PART SHALL IN ANY RESPECT CONSTITUTE A CORPORATE INDEBTEDNESS OF THE CITY WITHIN THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA.

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

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

This bond is one of an authorized issue of bonds of the City of South Bend, Indiana, of like date, tenor and effect, except as to denomination, numbering, rates of interest, redemption terms and dates of maturity, aggregating _____ Dollars (\$_____), numbered consecutively from 1 upward (the "Bonds"), issued for the purpose of providing funds to be applied to the cost of currently refunding outstanding City of South Bend, Indiana Waterworks Revenue Bonds of 2000 and City of South Bend, Indiana Waterworks Revenue Bonds of 2006 (collectively, the "Refunding"), to refund interim notes issued in anticipation of the Bonds, if any, to fund a debt service reserve, and to pay incidental expenses and costs of issuance of the Bonds. This bond is issued pursuant to an ordinance adopted by the Common Council of said City on the ___ day of _____, 2016, entitled "An Ordinance of the Common Council of the City of South Bend,

Indiana, Concerning the Current Refunding of Outstanding Waterworks Revenue Bonds of 2000 and 2006, each Issued to Finance Construction of Improvements to the Municipal Waterworks of the City of South Bend, Indiana; Authorizing the Issuance of Revenue Bonds for such Purpose in the Principal Amount not to exceed Three Million Seven Hundred Twenty Thousand (\$3,720,000); Addressing Other Matters Connected Therewith, Including the Issuance of Notes in Anticipation of Bonds; and Repealing Ordinances Inconsistent Herewith” (the “Ordinance”), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 8-1.5, and other applicable laws, as amended (the “Act”), all as more particularly described in the Ordinance. The owner of this bond, by the acceptance hereof, agrees to all the terms and provisions contained in the Ordinance and the Act.

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this bond and all other bonds of said issue, the Prior Bonds (as hereinafter defined), and any bonds hereafter issued on a parity therewith are payable solely from the Sinking Fund (the “Sinking Fund”) maintained under the Ordinance to be provided from the Net Revenues (defined as the gross revenues of the works after deduction only for the payment of the reasonable expenses of operation, repair and maintenance of the works, and which reasonable expenses of operation, repair and maintenance specifically do not include any rates or charges in lieu of taxes made and collected by the works and transferred to the City in accordance with the Act.

The City irrevocably pledges the entire Net Revenues of the works to the prompt payment of the principal of and interest on the Bonds and any bonds ranking on a parity therewith, including the “Waterworks Refunding Revenue Bonds of 2012B” dated November 29, 2012 (the “2012B Bonds”), “Waterworks Revenue Bonds of 2012” dated June 21, 2012 (the “2012A Bonds”), “Waterworks Revenue Bonds of 2009, Series B dated November 19, 2009 (the “2009B Bonds”) and the “Waterworks Revenue Bonds of 2009, Series A” dated September 1, 2009 (the “2009A Bonds”) (the 2012B Bonds, 2012A Bonds, the 2009B Bonds and the 2009A Bonds, together, the “Prior Bonds”), each authorized by ordinance of the City, to the extent necessary for such purposes, and covenants that it will establish proper rates and charges for services rendered by the utility as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of the works and for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Ordinance. If the City or the proper officers thereof shall fail or refuse to so fix and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the owner of this bond shall have all of the rights and remedies provided for in the Act.

The City covenants that for so long as the Bonds and any bonds issued on a parity therewith, including the Prior Bonds, remain outstanding it will set aside and pay into the Sinking Fund a sufficient amount of the Net Revenues for the payment of (a) the principal of and interest on all bonds which by their terms are payable from the Net Revenues, as such principal and interest shall fall due, (b) the necessary fiscal agency charges for paying bonds and (c) an additional amount to maintain the reserve required by the Ordinance. Such required payments shall constitute a first charge upon all the Net

Revenues. Reference is made to the Ordinance for a more complete statement of the revenues from which and conditions under which this bond is payable, a statement of the conditions on which obligations may hereafter be issued on parity with this bond, the manner in which the Ordinance may be amended and the general covenants and provisions pursuant to which this bond has been issued.

The bonds of this issue maturing on and after January 1, 20__ are redeemable at the option of the City on _____ 1, 20__, or any date thereafter, on thirty (30) days' notice, in whole or in part, in any order of maturities selected by the City and by lot within a maturity, at 100% of face value, and without premium, plus accrued interest to the date fixed for redemption. Each minimum authorized denomination in principal amount shall be considered a separate bond for purposes of partial redemption.

[Insert term bond provisions, if applicable.]

Notice of such redemption shall be mailed by first-class mail not more than sixty (60) days and not less than thirty (30) days prior to the date fixed for redemption to the address of the registered owner of each bond to be redeemed as shown on the registration record of the City except to the extent such redemption notice is waived by owners of the bond or bonds redeemed, provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any bond shall not affect the validity of any proceedings for the redemption of any other bonds. The notice shall specify the date and place of redemption, the redemption price and the CUSIP numbers of the bonds called for redemption. The place of redemption may be determined by the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named, and thereafter, such bonds shall no longer be protected by the Ordinance and shall not be deemed to be outstanding thereunder.

This bond is subject to defeasance prior to payment or redemption as provided in the Ordinance.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with the Paying Agent or another paying agent, an amount sufficient to pay such bond or the redemption price, as the case may be, and thereafter the Registered Owner shall look only to the funds so deposited in trust for payment and the City shall have no further obligation or liability in respect thereto.

This bond is transferable or exchangeable only upon the registration record kept for that purpose at the office of the Registrar by the Registered Owner in person, or by his attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the Registered Owner or such attorney, and thereupon a new fully registered bond or bonds in the same aggregate principal amount, and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the Registered Owner, as the case may be, in exchange therefor. This bond may be transferred or exchanged without cost to the Registered Owner except for any tax or governmental charge required to be paid with

respect to the transfer or exchange. The City, the Registrar, the Paying Agent and any other registrar or paying agent for this bond may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest and premium, if any, due hereon.

The bonds maturing on any maturity date are issuable only in the denomination of \$5,000 [or \$100,000] or any integral multiple [integral multiple of \$1,000] thereof.

A Continuing Disclosure Contract from the City to each registered owner or holder of any bond, dated as of the date of initial issuance of the Bonds (the "Contract"), has been executed by the City, a copy of which is available from the City and the terms of which are incorporated herein by this reference. The Contract contains certain promises of the City to each registered owner or holder of any Bond, including a promise to provide certain continuing disclosure. By its payment for and acceptance of this bond, the registered owner or holder of this bond assents to the Contract and to the exchange of such payment and acceptance for such promises.

IN WITNESS WHEREOF, the City of South Bend, in St. Joseph County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of the Mayor, and its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk.

CITY OF SOUTH BEND, INDIANA

By: _____
Mayor

(SEAL)

ATTEST

Clerk

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

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

as Registrar

By _____
Authorized Representative

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

TEN. COM.	as tenants in common
TEN. ENT.	as tenants by the entireties
JT. TEN.	as joint tenants with right of survivorship and not as tenants in common
UNIF. TRAN. MIN. ACT	_____ Custodian _____ (Cust.) (Minor) under Uniform Transfer to Minors Act of _____ (State)

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

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (Please Print or Typewrite Name and Address and Social Security or Other Identifying Number) \$_____ principal amount (must be a multiple of \$1,000) of the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney to transfer the within bond on the books kept for the registration thereof with full power of substitution in the premises.

Dated: _____

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

Signature Guaranteed:

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

SECTION 10. Sale of Bonds.

(a) The City may sell the 2016 Bonds in a public sale. In such case, the Fiscal Officer shall cause to be published either (i) a notice of sale once each week for two consecutive weeks per IC § 5-3-1-2, in which case the date fixed for the sale shall not be earlier than fifteen (15) days after the first such publications and not earlier than three (3) days after the second of such publications, or (ii) a notice of intent to sell bonds once each week for two (2) weeks in accordance with IC § 5-1-11-2 and IC § 5-3-1-4 and in a newspaper of general circulation published in the State capital, in which case bids may not be received more than ninety (90) days after the first of such publications. Said sale notice shall state the time and place of sale, the purpose for which the 2016 Bonds are being issued, the total amount thereof, the amount and date of each maturity, the maximum rate or rates of interest thereon, their denominations, the time and place of payment, that specifications and information concerning the 2016 Bonds are on file in the office of the Fiscal Officer and are available on request, the terms and conditions upon which bids will be received and the sale made and such other information as is required by law or as the Fiscal Officer shall deem necessary.

(b) All bids for the 2016 Bonds shall be presented to the Fiscal Officer in accord with the terms set forth in the sale notice. Bidders for the 2016 Bonds shall be required to name the rate or rates of interest which the 2016 Bonds are to bear, which shall be the same for all 2016 Bonds maturing on the same date and the interest rate bid on any maturity of 2016 Bonds must be no less than the interest rate bid on any and all prior maturities, not exceeding four percent (4%) per annum, and such interest rate or rates shall be in multiples of one-eighth or one-hundredth of one per cent. The Fiscal Officer shall award the 2016 Bonds to the bidder who offers the lowest interest cost, to be determined by computing the total interest on all the 2016 Bonds to their maturities and deducting therefrom the premium bid, if any, or adding thereto the amount of the discount, if any. No bid for less than ninety-nine percent (99%) of the par value of the 2016 Bonds for any such bonds to be sold by competitive sale shall be considered. The Fiscal Officer may require that all bids shall be accompanied by certified or cashier's checks (or wire transfer) payable to the order of the Mayor, or a surety bond, in an amount not to exceed one percent (1%) of the aggregate principal amount of the 2016 Bonds as a guaranty of the performance of said bid, should it be accepted. If a financial surety bond is used, it must be from an insurance company licensed to issue such bond in the State of Indiana, and such bond must be submitted to the City prior to the opening of the bids. The financial surety bond must identify each bidder whose good faith deposit is guaranteed by such financial surety bond. If the 2016 Bonds are awarded to a bidder utilizing a financial surety bond, then the purchaser is required to submit to the City a certified or cashier's check (or wire transfer such amount as instructed by the City) not later than 3:30 p.m. (South Bend, Indiana Time) on the next business day following the award. In the event no satisfactory bids are received on the day named in the sale notice, the sale may be continued from day to day thereafter for a period of thirty (30) days without readvertisement; provided, however, that if said sale be continued, no bid shall be accepted which offers an interest cost which is equal to or higher than the best bid received at the time fixed for sale in the bond sale notice. The Fiscal Officer shall have full right to reject any and all bids.

(c) As an alternative to public sale, the Fiscal Officer may negotiate the sale of the 2016 Bonds to an underwriter or financial institution. The Mayor and the Fiscal Officer are each authorized to execute a bond purchase agreement with such underwriter or financial institution, in customary form, upon such terms as are acceptable to the Mayor and the Fiscal Officer consistent with the terms of this Ordinance.

(d) Distribution of an Official Statement (Preliminary and Final) when and if prepared by the City's financial advisor, on behalf of the City, is hereby authorized and approved, and the Executive is authorized and directed to execute the Official Statement on behalf of the City in a form consistent with this Ordinance. The Executive or the Fiscal Officer is authorized to deem the Preliminary Official Statement as "final" for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

(e) After the 2016 Bonds have been properly sold and executed, the Fiscal Officer shall receive from the purchasers payment for the 2016 Bonds and shall provide for delivery of the 2016 Bonds to the purchasers.

(f) The 2016 Bonds, as and to the extent paid for and delivered to the purchaser shall be the binding special revenue obligations of the City, payable out of the Net Revenues. The proper officers of the City are hereby directed to sell the 2016 Bonds to the purchasers and to do whatever acts and things which may be necessary to carry out the provisions of this Ordinance.

(g) The Executive and the Fiscal Officer each are hereby authorized to deem final an official statement with respect to the 2016 Bonds, as of its date, in accordance with the provisions of Rule 15c2-12 of the U.S. Securities and Exchange Commission, as amended (the "SEC Rule"), subject to completion as permitted by the SEC Rule, and the City further authorizes the distribution of the deemed final official statement, and the execution, delivery and distribution of such document as further modified and amended with the approval of the Executive or the Fiscal Officer in the form of a final official statement.

(h) In order to assist any underwriter of the 2016 Bonds in complying with paragraph (b)(5) of the SEC Rule by undertaking to make available appropriate disclosure about the City and the 2016 Bonds to participants in the municipal securities market, the City hereby covenants, agrees and undertakes, in accordance with the SEC Rule, unless excluded from the applicability of the SEC Rule or otherwise exempted from the provisions of paragraph (b)(5) of the SEC Rule, that it will comply with and carry out all of the provisions of the continuing disclosure contract. "Continuing disclosure contract" shall mean that certain continuing disclosure contract executed by the City and dated the date of issuance of the 2016 Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof. The execution and delivery by the City of the continuing disclosure contract, and the performance by the City of its obligations thereunder by or through any employee or agent of the City, are hereby approved, and the City shall comply with and carry out the terms thereof.

(i) The Fiscal Officer is hereby authorized and directed to obtain a legal opinion as to the validity of the 2016 Bonds from Barnes & Thornburg LLP, and to furnish such opinion to the purchasers of the 2016 Bonds or to cause a copy of said legal opinion to be printed

on each 2016 Bond. The cost of such opinion shall be paid out of the proceeds of the 2016 Bonds.

(j) In connection with the sale of the 2016 Bonds, the Executive and the Fiscal Officer each are authorized to take such actions and to execute and deliver such agreements and instruments as they deem advisable to obtain a rating and/or to obtain bond insurance for the 2016 Bonds, and the taking of such actions and the execution and delivery of such agreements and instruments are hereby approved.

SECTION 11. Use of Proceeds. The accrued interest received at the time of delivery of the 2016 Bonds, if any, and premium, if any, shall be deposited in the Bond and Interest Account of the Sinking Fund (as hereafter defined) and applied to payments on the 2016 Bonds on the first interest payment date. An amount of proceeds from the sale of the 2016 Bonds of any Series equal to the amount described in Section 14(b) will be deposited to the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of such Series and applied as described below. An amount of proceeds from the sale of the 2016 Bonds of any Series equal to the estimated costs of issuance of the 2016 Bonds and other fees and charges associated with the issuance of the 2016 Bonds, including the premium for any bond insurance obtained for the 2016 Bonds, shall be deposited into a fund of the utility hereby created and designated as "City of South Bend, Indiana Waterworks 2016 Costs of Issuance Fund" (the "Costs of Issuance Fund"). The proceeds deposited in the Costs of Issuance Fund, together with all investment earnings thereon, shall be expended only for the purpose of paying the costs of issuance of the 2016 Bonds and other fees and charges associated with the issuance of the 2016 Bonds, including the premium for any bond insurance obtained for the 2016 Bonds. The remaining proceeds from the sale of the 2016 Bonds shall be deposited into a fund of the utility hereby created and designated as "City of South Bend, Indiana Waterworks 2016 Refunding Fund" (the "Refunding Fund"). The proceeds deposited in the Refunding Fund, together with all investment earnings thereon, shall be expended only for the purpose of paying the costs of the Refunding.

SECTION 12. Revenue Fund. There is hereby continued a fund of the utility created and designated in the Prior Ordinances as the Revenue Fund (the "Revenue Fund"). All income and revenues of the works shall be paid into the Revenue Fund for application as described below.

SECTION 13. Operation and Maintenance Fund. There is hereby continued a fund of the utility created and designated in the Prior Ordinances as the Operation and Maintenance Fund (the "Operation and Maintenance Fund") (also shown on the books of the utility as the Operating Fund). There shall be transferred from the Revenue Fund and credited to the Operation and Maintenance Fund, on the last day of each calendar month, a sufficient amount so that the balance in this Fund shall be sufficient to pay the expenses of operation, repair and maintenance for the then next succeeding two calendar months. The moneys credited to this Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the works on a day-to-day basis, but none of the moneys in the Operation and Maintenance Fund shall be used for depreciation, replacements, improvements, extensions or additions or transfer of the Pilot Payment. Any balance in Operation and Maintenance Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding two calendar months may be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the works.

SECTION 14. Sinking Fund. There is hereby continued a fund of the utility created and designated in the Prior Ordinances as the Sinking Fund (the "Sinking Fund"), to be used for the payment of the principal of and interest on bonds which by their terms are payable from the Net Revenues, and for the payment of any fiscal agency charges in connection with such payment. The Sinking Fund is divided into two accounts designated as the Bond and Interest Account and the Debt Service Reserve Account, which are pledged for the purposes set forth below. There shall be set aside and deposited in the Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the Net Revenues to meet the requirements of the Bond and Interest Account (also shown on the books of the utility as the Bond Sinking Fund) and of the Debt Service Reserve Account. Such payments shall continue until the balance in the Bond and Interest Account, plus the balance in the Debt Service Reserve Account, equals the amount needed to redeem all of the then outstanding bonds.

(a) Principal and Interest Account. There shall be transferred, on the last day of each calendar month, from the Revenue Fund and credited to the Bond and Interest Account an amount equal to the sum of one-twelfth (1/12) of the principal and one-sixth (1/6) of the interest on all then outstanding bonds payable from Net Revenues on the next succeeding principal and interest payment dates, until the amount so credited shall equal the principal payable during the next succeeding twelve (12) calendar months and the interest payable during the next succeeding six (6) calendar months. There shall similarly be credited to the account any amount necessary to pay when due the bank fiscal agency charges for paying principal of and interest on the bonds as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the bank fiscal agency sufficient moneys to pay the principal and interest on the due dates thereof together with the amount of bank fiscal agency charges.

(b) Debt Service Reserve Account. The City may, upon the issuance of the 2016 Bonds of any Series, establish within the Debt Service Reserve Account a subaccount for the 2016 Bonds of such Series (each, a "2016 Subaccount"). The Debt Service Reserve Account (excluding any subaccounts established for any of the Bonds (each, a "Subaccount", and collectively, the "Subaccounts")) shall constitute the margin for safety and as protection against default in the payment of principal of and interest on the Bonds (as hereinafter defined) (excluding any Bonds for which a Subaccount was established), and the moneys in the Debt Service Reserve Account (excluding any Subaccounts) shall be used to pay current principal and interest on the Bonds (excluding any Bonds for which a Subaccount was established) to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. The 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of any Series shall constitute the margin for safety and as protection against default in the payment of principal of and interest on the 2016 Bonds of such Series, and the moneys in such 2016 Subaccount shall be used to pay current principal and interest on the 2016 Bonds of such Series to the extent that moneys in the Bond and Interest Account are insufficient for that purpose.

(c) No amounts in the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of any Series shall be available to pay any principal of or interest or redemption premium, if any, on any Bonds, except the 2016 Bonds of such Series.

(d) No amounts in the Debt Service Reserve Account shall be available to pay any principal of or interest or redemption premium, if any, on any 2016 Bonds of any Series for which a 2016 Subaccount was established, except that any amounts in the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of any Series shall be available to pay the principal of or interest or redemption premium, if any, on the 2016 Bonds of such Series.

(e) In this Ordinance the term "Parity Bonds" means any and all bonds ranking on a parity with the 2016 Bonds issued hereunder (including the Prior Bonds) which are (i) now outstanding or issued in the future by the City and (ii) which are payable from the Net Revenues of the City's waterworks.

(f) In this Section 14, the term "Bonds" means the 2016 Bonds issued hereunder and all Parity Bonds.

(g) In this Ordinance, the term "Reserve Requirement" for the Bonds (excluding any Bonds for which a Subaccount was established) means the least of: (i) the maximum annual debt service on the Bonds (excluding any Bonds for which a Subaccount was established), (ii) 125% of the average annual debt service on the Bonds (excluding any Bonds for which a Subaccount was established), or (iii) 10% of the proceeds of the Bonds (excluding any Bonds for which a Subaccount was established). In this Ordinance, the term "Reserve Requirement" for the 2016 Bonds of each Series for which a 2016 Subaccount was established means the least of: (i) the maximum annual debt service on the 2016 Bonds of such series, (ii) 125% of the average annual debt service on the 2016 Bonds of such Series, or (iii) 10% of the proceeds of the 2016 Bonds of such Series.

(h) Subject to Section 14(i) and Section 14(j) below, the City shall maintain in the Debt Service Reserve Account (excluding any Subaccounts) an amount equal to the Reserve Requirement for the Bonds (excluding any Bonds for which a Subaccount was established). Subject to Section 14(i) and Section 14(j) below, the City shall maintain in the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of each Series for which a 2016 Subaccount was established an amount equal to the Reserve Requirement for the 2016 Bonds of such Series.

(i) To the extent that the amount in the Debt Service Reserve Account (excluding any Subaccounts) on the date of the issuance of the 2016 Bonds of any Series is less than the Reserve Requirement for the Bonds (excluding any Bonds for which a Subaccount was established), that portion of the shortfall which exists as of the date of issuance of the 2016 Bonds of such Series shall, at the election of the Executive and Fiscal Officer with the advice of the City's financial advisor, be deposited into the Debt Service Reserve Account (excluding any Subaccounts) either (i) in a single payment, to be paid on the date of the issuance of the 2016 Bonds of such Series, or (ii) in equal monthly installments, over a period not to exceed sixty (60) months after the date of issuance of the 2016 Bonds of such Series, with the first installment due and payable on the date of the issuance of the 2016 Bonds of such Series, and the remaining installments payable on the last day of each calendar month, commencing on the last day of the month in which the 2016 Bonds of such Series are issued. To the extent that the amount in the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of any Series on the date of the issuance of the 2016 Bonds of such Series is less than the Reserve Requirement for

the 2016 Bonds of such Series, that portion of the shortfall which exists as of the date of issuance of the 2016 Bonds of such Series shall, at the election of the Executive and Fiscal Officer with the advice of the City's financial advisor, be deposited into such 2016 Subaccount either (i) in a single payment, to be paid on the date of the issuance of the 2016 Bonds of such Series, or (ii) in equal monthly installments, over a period not to exceed sixty (60) months after the date of issuance of the 2016 Bonds of such Series, with the first installment due and payable on the date of the issuance of the 2016 Bonds of such Series, and the remaining installments payable on the last day of each calendar month, commencing on the last day of the month in which the 2016 Bonds of such Series are issued.

(j) To the extent that additional Parity Bonds are issued subsequent to the issuance of the 2016 Bonds of any Series, the additional amounts, if any, which are required to be paid into the Debt Service Reserve Account to satisfy the Reserve Requirement as a result of the issuance of such additional Parity Bonds shall, at the election of the Executive and Fiscal Officer with the advice of the City's financial advisor, be deposited into the Debt Service Reserve Account either (i) in a single payment, to be paid on the date of the issuance of such additional Parity Bonds, or (ii) in equal monthly installments, over a period not to exceed sixty (60) months after the date of issuance of such additional Parity Bonds, with the first installment due and payable on the date of the issuance of such additional Parity Bonds, and the remaining installments payable on the last day of each calendar month, commencing on the last day of the month in which such additional Parity Bonds are issued.

(k) Subject to Section 14(i) and Section 14(j) above, any deficiency in the balance maintained in the Debt Service Reserve Account (excluding any Subaccounts) or any Subaccounts shall be promptly made up from the next available Net Revenues after credits into the Bond and Interest Account, on a pro rata basis, calculated by reference to the amount of the deficiency in the Debt Service Revenue Account (excluding any Subaccounts) and each Subaccount. Any moneys in the Debt Service Reserve Account (excluding any Subaccount) in excess of the Reserve Requirement for the Bonds (excluding any Bonds for which a Subaccount was established), and any moneys in the 2016 Subaccount for the 2016 Bonds of any Series for which a 2016 Subaccount was established in excess of the Reserve Requirement for the 2016 Bonds of such Series, may be used for the prepayment of installments of principal, together with interest due thereon, on the then outstanding Bonds which are then callable or prepayable, or for the purchase of outstanding Bonds or installments of principal of and interest on the Bonds at a price not exceeding par and accrued interest, or may be transferred to the Improvement Fund.

(l) As an alternative to holding cash funds in the Debt Service Reserve Account or any Subaccount, the City, with the advice of the City's financial advisor and nationally recognized bond counsel, may satisfy all or any part of its obligation to maintain any amount in the Debt Service Reserve Account or such Subaccount by depositing a Credit Facility (as defined in the next sentence) therein (which, for any 2009 Bonds for which a Subaccount was established and which were sold to the Indiana Finance Authority through the SRF Program (as hereafter defined), will require the written consent of the Indiana Finance Authority to the deposit of any such Credit Facility), provided that such deposit does not adversely affect any then existing rating on the Bonds. A "Credit Facility" is hereby defined as a letter of credit, liquidity facility, insurance policy or comparable instrument furnished by a bank, insurance company, financial institution or other entity pursuant to a reimbursement agreement or similar

instrument between such entity and the City. To the extent that any Bonds are insured, and the Credit Facility is not being provided by the insurer of such Bonds, such insurance policy shall be subject to the insurer's prior written consent.

(m) In the event a draw is made against the Credit Facility in the Debt Service Reserve Account or any Subaccount, the City shall repay the amount of the draw and related expenses incurred by the issuer(s) of the Credit Facility (the "Credit Facility Issuer") together with interest thereon at the rate specified in the Credit Facility and/or the related Credit Facility Agreement (as defined below). The repayment of the draw amount, related expenses and accrued interest (the "Credit Facility Costs") shall be paid from the funds that would have been set aside above to replenish the Debt Service Reserve Account or such Subaccount, respectively. Repayment of the Credit Facility Costs shall commence in the first month following each draw, in an amount equal to no less than one twelfth (1/12) of the aggregate Credit Facility Costs related to such draw ("Monthly Installments"). Each Monthly Installment shall be deposited by the City into the Debt Service Reserve Account or such Subaccount, respectively, and then payments shall be made from the Debt Service Reserve Account or such Subaccount, respectively, to pay Credit Facility Costs.

(n) If and to the extent cash has been deposited to the Debt Service Reserve Account or any Subaccount (other than Monthly Installments to pay Credit Facility Costs), all such cash (or permitted investments) shall be used prior to any drawing under the Credit Facility therein, and repayment of any Credit Facility Costs shall be made prior to replenishment of any such cash amounts.

(o) If, in addition to the Credit Facility in the Debt Service Reserve Account or any Subaccount, any other reserve account substitute instrument ("Additional Credit Facility") is provided, drawings under the Credit Facility and any such Additional Credit Facility, and repayment of Credit Facility Costs and reimbursement of amounts due under the Additional Credit Facility, shall be made on a pro-rata basis (calculated by reference to the maximum amounts available thereunder) after applying all available cash therein and prior to replenishment of any such cash draws, respectively.

(p) The City acknowledges that: (i) at the time that the 2009A Bonds were issued, the City, pursuant to the 2009 Ordinance, established within the Debt Service Reserve Account a subaccount for the 2009A Bonds (the "2009A Subaccount"); (ii) such 2009A Subaccount constitutes the margin for safety and as protection against default in the payment of principal of and interest on the 2009A Bonds; (iii) the moneys in such 2009A Subaccount shall be used to pay current principal and interest on the 2009A Bonds, to the extent that moneys in the Bond and Interest Account are insufficient for that purpose; (iv) the 2009A Bonds were sold to the Indiana Finance Authority pursuant to its Drinking Water Revolving Loan Program (the "SRF Program") and pursuant to the 2009 Ordinance the "Reserve Requirement" for the 2009A Bonds for which the 2009A Subaccount was establish means the maximum annual debt service on the 2009A Bonds; and (v) each of the provisions in the 2009 Ordinance pertaining to the 2009A Subaccount remain in full force and effect.

SECTION 15. Improvement Fund. After meeting the requirements of the Operation and Maintenance Fund and the Sinking Fund, any excess revenues may be transferred from the

Revenue Fund and credited to the special utility fund hereby continued which was created and designated in the Prior Ordinances as the "Waterworks Improvement Fund" (the "Improvement Fund") (also shown on the books of the utility as the Depreciation Fund), and said Fund shall be used for improvements, replacements, additions and extensions of the works and transfer of the Pilot Payment. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of and interest on the then outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Debt Service Reserve Account of the Sinking Fund, or may be transferred to the Operation and Maintenance Fund to meet unforeseen contingencies in the operation and maintenance of the works.

SECTION 16. Investment of Funds. The Revenue Fund and the Sinking Fund each shall be deposited in and maintained as a separate bank account or accounts from all other bank accounts of the City. The Operation and Maintenance Fund and the Improvement Fund may be maintained in a single bank account or accounts, but such bank account or accounts shall likewise be maintained separate and apart from the Revenue Fund and all other bank accounts of the City and apart from the Revenue Fund and the Sinking Fund bank accounts. All moneys deposited in the bank accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided, that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly Indiana Code, Title 5, Article 13, Chapter 9 as amended or supplemented, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this Ordinance.

SECTION 17. Financial Records and Accounts. The City shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of the utility and all disbursements made therefrom and all transactions relating to the utility. The City shall maintain on file the audited financial statements of the utility prepared by the State Board of Accounts. There shall be furnished, upon written request, to any owner of the 2016 Bonds, the most recent copy of the audited financial statements of the utility prepared by the State Board of Accounts. Copies of all such statements and reports shall be kept on file in the office of the Fiscal Officer.

SECTION 18. Rate Covenant. The City, by and through the Board and to the fullest extent permitted by law, shall establish, fix, maintain and collect reasonable and just rates and charges for the use of and the services rendered by the works so that such rates and charges shall produce revenues at least sufficient in each year to (a) pay all the legal and other necessary expenses incident to the operation of the works, including maintenance costs, operating charges, upkeep, repairs, and interest charges on bonds or other obligations, including leases; (b) provide a sinking fund for the liquidation of bonds or other obligations, including leases; (c) provide a debt service reserve on bonds or other obligations, including leases, as required by the terms of such obligations; (d) provide adequate money for working capital; (e) provide adequate money for making extensions and replacements; and (f) provide money for the payment of any taxes that may be assessed against the works. So long as any of the 2016 Bonds are outstanding, none of the facilities and services afforded by the works shall be furnished without a reasonable and just charge being made therefor.

SECTION 19. Defeasance. If, when the 2016 Bonds or a portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the 2016 Bonds or a portion thereof for redemption shall have been given, and the whole amount of the principal, premium, if any, and the interest so due and payable upon such 2016 Bonds or any portion thereof then outstanding shall be paid, or (i) cash, (ii) direct non-callable obligations of (including obligations issued or held in book-entry form on the books of) the U.S. Department of the Treasury, the principal of and the interest on which when due without reinvestment will provide sufficient money, or (iii) any combination of the foregoing, shall be held irrevocably in trust for such purpose, and provision shall also be made for paying all fees and expenses for the payment, then and in that case the 2016 Bonds or such designated portion thereof shall no longer be deemed outstanding or secured by this Ordinance or entitled to the pledge of the Net Revenues.

SECTION 20. Additional Bonds. The City reserves the right to issue additional bonds payable out of the Net Revenues ranking on a parity with the 2016 Bonds for the purpose of financing the cost of future additions, extensions and improvements to the works, or to provide for a complete or partial refunding of obligations, subject to the following conditions precedent:

(a) The interest on and principal of all bonds payable from the Net Revenues shall have been paid to date in accordance with the terms thereof, and all required payments into the Sinking Fund required by this Ordinance shall have been made. The Reserve Requirement shall be satisfied for the additional Parity Bonds either at the time of delivery of the additional Parity Bonds or over a five-year or shorter period, in a manner which is commensurate with the requirements established in Section 14 of this Ordinance.

(b) The Net Revenues in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the 2016 Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual principal and interest requirements of the then outstanding bonds (including the 2016 Bonds and the Prior Bonds) and the additional Parity Bonds proposed to be issued; or, prior to the issuance of the additional Parity Bonds, the water rates and charges shall be increased sufficiently so that the increased rates and charges applied to the previous fiscal year's operations would have produced Net Revenues for the year equal to not less than one hundred twenty-five percent (125%) of the maximum annual principal and interest requirements of the then outstanding bonds and the additional Parity Bonds proposed to be issued. For purposes of this subsection, the records of the works shall be analyzed and all showings shall be prepared by an independent certified public accountant employed by the City for that purpose.

(c) To the extent required by law, the issuance of the proposed additional Parity Bonds and any necessary increase in water rates and charges shall have been approved by the Indiana Utility Regulatory Commission, or any successor body vested by law with authority to approve bonds and water rates and charges of municipal waterworks.

(d) The principal of said additional Parity Bonds shall be payable on January 1 and the interest shall be payable on January 1 and July 1 during the periods such principal and interest are payable while the 2016 Bonds and Prior Bonds are outstanding.

(e) So long as the 2009A Bonds or any other Parity Bonds sold to the Indiana Finance Authority through the SRF Program remain outstanding, the City shall obtain the consent of the Indiana Finance Authority to the issuance of the proposed additional Parity Bonds.

SECTION 21. Further Covenants of the City. For the purpose of further safeguarding the interests of the owners of the 2016 Bonds, it is hereby specifically provided as follows:

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

(b) So long as any of the 2016 Bonds are outstanding, the City, through the Board, shall maintain insurance on the insurable parts of the works, of a kind and in an amount such as would normally be carried by private entities engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. As an alternative to maintaining such insurance, the City may maintain a self-insurance program with catastrophic or similar coverage so long as such program meets the requirements of any applicable laws or regulations and is maintained in a manner consistent with programs maintained by similarly situated municipalities. Insurance proceeds or self-insurance proceeds shall be used in replacing or repairing the property destroyed or damaged, or if not used for that purpose, shall be treated and applied as Net Revenues.

(c) So long as any of the 2016 Bonds are outstanding, the City shall not mortgage, pledge or otherwise encumber the works, or any part thereof, and shall not sell, lease or otherwise dispose of any part of the same, excepting only such machinery, equipment or other property as may be replaced, or shall no longer be necessary for use in connection with said utility; provided, the foregoing restrictions shall not apply to the extent approved otherwise in writing by the owners of all 2016 Bonds then outstanding, and the City receives an opinion of nationally recognized bond counsel to the effect that the transaction will not cause the interest on the 2016 Bonds to be included in gross income for federal income tax purposes.

(d) Reserved.

(e) Except as otherwise specifically provided in Section 20 of this Ordinance and in the Prior Ordinances, so long as any of the 2016 Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of the works shall be issued by the City, except such as shall be made junior and subordinate in all respects to the 2016 Bonds, unless all of the 2016 Bonds are defeased, redeemed or retired coincidentally with the delivery of such additional bonds or other obligations. Such subordinate obligations shall be subject to the provisions of Section 20(d).

(f) The provisions of this Ordinance shall constitute a contract by and between the City and the owners of the 2016 Bonds, all the terms of which shall be enforceable by any such owner by any and all appropriate proceedings in law or in equity. After the issuance of the 2016 Bonds and so long as any of the principal thereof or interest or premium, if any, thereon remains unpaid, except as expressly provided herein, this Ordinance shall not be repealed or amended in any respect which, in the determination of the Council in its sole discretion, will materially and adversely affect the rights of such owners, nor shall the Council or

any other body of the City adopt any law, ordinance or resolution which, in the determination of the Council in its sole discretion, in any way materially and adversely affects the rights of such owners.

The provisions of this Ordinance shall be construed to create a trust in the proceeds of the sale of the 2016 Bonds for the uses and purposes herein set forth, and the owners of the 2016 Bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this Ordinance and the Act. The provisions of this Ordinance shall also be construed to create a trust in the Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of that Fund as set forth in this Ordinance. The owners of the 2016 Bonds shall have all the rights, remedies and privileges set forth in the Act.

SECTION 22. Amendments With Consent of Bondholders. Subject to the terms and provisions contained in this section and Sections 21 and 23, the owners of not less than a majority in aggregate principal amount of the 2016 Bonds and then outstanding shall have the right, from time to time, to consent to and approve the adoption by the Council of such ordinance or ordinances supplemental hereto, as shall be deemed necessary or desirable by the City for the purpose of amending in any particular any of the terms or provisions contained in this Ordinance, or in any supplemental Ordinance; provided, however, nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest or premium, if any, on any 2016 Bond or an advancement of the earliest redemption date on any 2016 Bond, without the consent of the holder of each 2016 Bond so affected; or

(b) A reduction in the principal amount of any 2016 Bond, the redemption premium, the Reserve Requirement therefor or the rate of interest thereon, or a change in the monetary medium in which such amounts are payable, without the consent of the holder of each 2016 Bond so affected; or

(c) The creation of a lien upon or a pledge of the Net Revenues ranking prior to the pledge thereof created by this Ordinance, without the consent of the holders of all 2016 Bonds then outstanding; or

(d) A preference or priority of any 2016 Bond over any other 2016 Bond, without the consent of the holders of all 2016 Bonds then outstanding; or

(e) A reduction in the aggregate principal amount of the 2016 Bonds required for consent to such supplemental ordinance, without the consent of the holders of all 2016 Bonds then outstanding.

If the City shall desire to obtain any such consent, it shall cause the Registrar to mail a notice, postage prepaid, to the addresses appearing on the Registration Record. Such notice shall briefly set forth the nature of the proposed supplemental ordinance and shall state that a copy thereof is on file at the office of the Registrar for inspection by all owners of the 2016 Bonds. The Registrar shall not, however, be subject to any liability to any owners of the 2016 Bonds by reason of its failure to mail such notice, and any such failure shall not affect the validity of such supplemental ordinance when consented to and approved as herein provided.

Whenever at any time within one year after the date of the mailing of such notice, the City shall receive any instrument or instruments purporting to be executed by the owners of the 2016 Bonds of not less than a majority in aggregate principal amount of the 2016 Bonds then outstanding, which instrument or instruments shall refer to the proposed supplemental ordinance described in such notice, and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice as on file with the Registrar, thereupon, but not otherwise, the City may adopt such supplemental ordinance in substantially such form, without liability or responsibility to any owners of the 2016 Bonds, whether or not such owners shall have consented thereto.

No owner of any 2016 Bond shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Council from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of his section, this Ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Ordinance of the City and all owners of 2016 Bonds then outstanding shall thereafter be determined, exercised and enforced in accordance with this Ordinance, subject in all respects to such modifications and amendments.

Notwithstanding anything contained in the foregoing provisions of this Ordinance, the rights and obligations of the City and of the owners of the 2016 Bonds, and the terms and provisions of the 2016 Bonds and this Ordinance, or any supplemental ordinance, may be modified or amended in any respect with the consent of the City and the consent of the owners of all the 2016 Bonds then outstanding.

SECTION 23. Amendments Without Consent of Bondholders. The Council may, from time to time and at any time, and without notice to or consent of the owners of the 2016 Bonds, adopt such ordinances supplemental hereto (which supplemental ordinances shall thereafter form a part hereof):

(a) To cure any ambiguity or formal defect or omission in this Ordinance or in any supplemental ordinance;

(b) To grant to or confer upon the owners of the 2016 Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the owners of the 2016 Bonds;

(c) To procure a rating on the 2016 Bonds from a nationally recognized securities rating agency designated in such supplemental ordinance, if such supplemental ordinance, in the determination of the Council in its sole discretion, will not materially and adversely affect the owners of the 2016 Bonds;

(d) To obtain or maintain bond insurance with respect to the 2016 Bonds;

(e) To provide for the refunding or advance refunding of the 2016 Bonds;

(f) To provide for the issuance of additional bonds as provided in Section 20 hereof; or

(g) To make any other change which, in the determination of the Council in its sole discretion, is not to the material prejudice of the owners of the 2016 Bonds.

SECTION 24. Tax Matters. In order to preserve the exclusion of interest on the 2016 Bonds from gross income for federal income tax purposes and as an inducement to purchasers of the 2016 Bonds, the City represents, covenants and agrees that:

(a) No person or entity, other than the City or another state or local governmental unit, will use proceeds of the 2016 Bonds or property financed by the 2016 Bond proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by 2016 Bond proceeds or will have actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, an arrangement such as take-or-pay or output contract, or any other type of arrangement that differentiates that person's or entity's use of such property from the use by the public at large.

(b) No 2016 Bond proceeds will be loaned to any entity or person other than a state or local governmental unit. No 2016 Bond proceeds will be transferred, directly or indirectly, or deemed transferred to a non-governmental person in any manner that would in substance constitute a loan of the 2016 Bond proceeds.

(c) The City will not take any action or fail to take any action with respect to the 2016 Bonds that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the 2016 Bonds pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations thereunder as applicable to the 2016 Bonds, including, without limitation, the taking of such action as is necessary to rebate or cause to be rebated arbitrage profits on 2016 Bond proceeds or other monies treated as 2016 Bond proceeds to the federal government as provided in Section 148 of the Code, and will set aside such monies, which may be paid from investment income on funds and accounts notwithstanding anything else to the contrary herein, in trust for such purposes.

(d) The City will file an information report on Form 8038-G with the Internal Revenue Service as required by Section 149 of the Code.

(e) The City will not make any investment or do any other act or thing during the period that any 2016 Bond is outstanding hereunder which would cause any 2016 Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code and the regulations thereunder as applicable to the 2016 Bonds.

Notwithstanding any other provisions of this Ordinance, the foregoing covenants and authorizations (the "Tax Sections") which are designed to preserve the exclusion of interest on the 2016 Bonds from gross income under federal law (the "Tax Exemption") need not be complied with to the extent the City receives an opinion of nationally recognized bond counsel that compliance with such Tax Section is unnecessary to preserve the Tax Exemption.

SECTION 25. Issuance of BANs; Other Actions.

(a) The City, having satisfied all the statutory requirements for the issuance of the 2016 Bonds, has the authority to elect to issue a bond anticipation note or notes, repayable from the proceeds received from the sale of the 2016 Bonds (defined herein as the "BANs"). This Council hereby authorizes the issuance and sale of the BANs pursuant to I.C. §5-1-14-5 in one or more series, ranking on a parity with each other, in original aggregate principal amount not to exceed Three Million Seven Hundred Twenty Thousand Dollars (\$3,720,000) to provide interim financing until permanent financing becomes available and to pay for costs of issuing the BANs, and the BANs also may fund capitalized interest thereon. The designation of the BANs shall be "City of South Bend, Indiana Waterworks Bond Anticipation Note of 20__". The BANs shall be issued in fully registered form in denominations of Five Thousand Dollars (\$5,000), or integral multiples thereof, shall be originally dated the date of delivery, shall be numbered consecutively from 1 upward, shall mature not more than five (5) years from the date of issuance, may be renewed or extended from time to time, over a period not exceeding five (5) years from the date of the original issuance of the BANs, in accord with I.C. §5-1.1-5, shall be prepayable on seven (7) days' notice in whole or in part in any authorized denomination without premium or penalty, shall bear interest at a rate not exceeding four percent (4%) per annum, and shall be sold at a discount not exceeding ninety-nine percent (99%) of the principal amount thereof. Interest on the BANs shall be payable at maturity. It shall not be necessary for the City to repeat the procedures for the issuance of the 2016 Bonds as the procedures followed before the issuance of the BANs are for all purposes sufficient to authorize the issuance of the 2016 Bonds and to use proceeds thereof to repay the BANs.

The principal of the BANs herein authorized is payable solely from proceeds received from the sale of the 2016 Bonds, and the interest thereon may be paid from such proceeds or from the Net Revenues or a combination thereof, and the proceeds received by the City from the sale of the 2016 Bonds and such Net Revenues are hereby irrevocably pledged to the payment of the principal of and interest on the BANs. The Executive is hereby authorized to determine the form of the BANs and to execute the BANs, the Fiscal Officer is hereby authorized to have the BANs prepared, and to attest to the BANs and affix the seal the City or cause a facsimile of the seal of the City to be imprinted or impressed on the BANs. The Fiscal Officer is hereby authorized and directed to obtain the legal opinion as to the validity of the BANs from Barnes & Thornburg LLP. After the BANs shall have been properly executed, the Fiscal Officer shall be authorized to receive from the purchaser thereof payment for the BANs and to provide for delivery of the BANs to the purchaser. The City may receive payment for the BANs in installments. Proceeds received from the sale of the BANs shall be deposited in the funds set forth in Section 11 of this Ordinance. The Fiscal Officer is authorized to sell the BANs to any investor, and to work with the investor to facilitate the sale of the BANs. In any case any officer whose signature or a facsimile signature appears on the BANs shall cease to be such officer before delivery of the BANs, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until delivery of the BANs.

Upon execution of the BANs by the Executive and attestation thereof by the City Clerk, the BANs shall constitute the legal, valid and binding obligations of the City.

No action shall be taken that would impair the exclusion from gross income of interest on the BANs provided by the Code (as defined in Section 24). In furtherance of the foregoing, the provisions of Section 24 of this Ordinance shall apply to the BANs in the same manner as they apply to the 2016 Bonds.

The BANs shall be subject to transfer or exchange in the same manner as the 2016 Bonds, as described in Section 4, and to amendment in the same manner as the 2016 Bonds, as described in Sections 22 and 23.

The Executive and the Fiscal Officer each are authorized and directed to execute a purchase agreement with respect to the BANs in such form or substance as they shall approve. As an alternative to any terms of the BANs set forth above and to the method of sale referred to above, the Fiscal Officer may negotiate the sale to the Indiana Finance Authority or the Indiana Bond Bank upon such terms as are acceptable to the Executive and the Fiscal Officer and as are authorized by law for such sale, and the Executive and the Fiscal Officer each are authorized to execute a purchase agreement with the Indiana Finance Authority or the Indiana Bond Bank reflecting such terms.

(b) The Executive and the Fiscal Officer may take such other actions or deliver such other certificates and documents needed for the Refunding or the financing as they deem necessary or desirable in connection therewith.

SECTION 26. Rate Ordinance. The rates and charges of the works are set forth or described in Ordinance No. 9656-06 adopted by the Council on February 27, 2006. Such ordinance is hereby incorporated by reference as if set forth in full at this place, two copies of which are on file and available for public inspection in the office of the City Clerk pursuant to I.C. §36-1-5-4.

SECTION 27. Non-Business Days. If the date of making any payment or the last date for performance of any act or the exercising of any right, as provided in this Ordinance, shall be a legal holiday or a day on which banking institutions in the City or the jurisdiction in which the Registrar or Paying Agent is located are typically closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are typically closed, with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

SECTION 28. No Conflict. The Council hereby finds and determines that the adoption of this Ordinance and the issuance of the 2016 Bonds are in compliance with the Prior Ordinances. The Prior Ordinances shall remain in full force and effect. All ordinances and resolutions and parts thereof in conflict herewith, except the Prior Ordinances, are to the extent of such conflict hereby repealed. None of the provisions of this Ordinance shall be construed to adversely affect the rights of the owners of the Parity Bonds.

SECTION 29. Severability. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such

section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 30. Interpretation. Unless the context or laws clearly require otherwise, references herein to statutes or other laws include the same as modified, supplemented or superseded from time to time.

SECTION 31. Effectiveness. This Ordinance shall be in full force and effect from and after its passage and compliance with the procedures required by law.

SECTION 32. Credit Facility. The Executive and the Fiscal Officer, on behalf of the City, are hereby authorized to obtain a Credit Facility or Additional Credit Facility as set forth in Section 14 herein. The Executive and the Fiscal Officer, on behalf of the City, are also authorized to enter into an agreement with the Credit Facility Issuer for either the Credit Facility or Additional Credit Facility (the "Credit Facility Agreement") and negotiate the terms of the Credit Facility Agreement, with the advice of the City's financial advisor and nationally recognized bond counsel. The Executive and the Fiscal Officer, on behalf of the City, are also authorized to execute any and all other documents required to obtain the Credit Facility. The City hereby agrees that: If the waterworks fails to pay any Credit Facility Costs in accordance with the requirements set forth above, the Credit Facility Issuer shall be entitled to exercise any and all remedies available at law or under the authorized documents other than (i) acceleration of the maturity of the 2016 Bonds or (ii) remedies which would adversely affect the owners of the 2016 Bonds.

(b) This Ordinance shall not be discharged and the 2016 Bonds defeased until all Credit Facility Costs owing to the Credit Facility Issuer shall have been paid in full.

(c) The Credit Facility Issuer is granted a security interest (subordinate to that of the owners of the 2016 Bonds) in all revenues and collateral pledged as security for the 2016 Bonds, for the repayment of the Credit Facility Costs.

(d) No additional bonds payable from the Net Revenues will be issued without the Credit Facility Issuer's prior written consent as long as Credit Facility Costs are past due and still owing to the Credit Facility Issuer.

(e) This Ordinance shall not be modified or amended, except as provided in Section 23 herein, without the prior written consent of the Credit Facility Issuer.

The Credit Facility Issuer shall be provided with written notice of the resignation or removal of the Registrar and Paying Agent and the appointment of a successor thereto and of the issuance of additional indebtedness of the City's waterworks at such address as may be specified, from time to time, by the Credit Facility Issuer.

SECTION 33. Payment on Bonds in the Event of Default. In the event available moneys are insufficient to pay debt service on the 2016 Bonds and any Parity Bonds when due, available moneys shall be applied, after payment of all costs and expenses associated therewith, to the 2016 Bonds and any Parity Bonds as follows: to the payment to the persons entitled thereto of all unpaid installments of interest then due on, and the unpaid principal of, the 2016 Bonds and any

Parity Bonds, including interest on any past due principal of any 2016 Bond or Parity Bond at the rate borne by such 2016 Bond or Parity Bond, in the order of the maturity of the installments of such interest and the due dates of such principal and, if the amount available shall not be sufficient to pay in full any particular installment of interest or maturity of principal, then to such payment ratably, according to the amounts so due, to the persons entitled thereto, without any discrimination or privilege or any preference of or priority of interest over principal or principal over interest.

During the continuance of any default in the payment of either principal of or interest or premium on any 2016 Bonds or Parity Bonds, no payment shall be made with respect to any subordinate obligations issued pursuant to Section 21(e). Moneys available for payment to holders of such subordinate obligations shall, in the event of an insufficient amount being available to pay all debt service with respect to the subordinate obligations when due, be applied to the subordinate obligations in accordance with the sequence and other terms set forth above with respect to payments regarding 2016 Bonds and Parity Bonds unless otherwise provided in the ordinance authorizing the subordinate obligations.

SECTION 34. Actions and Agreements. Each of the Executive, the Fiscal Officer and any other officer or employee of the City is hereby authorized and directed to execute any instruments or agreements or take any other actions necessary or desirable to effect the transactions contemplated by this Ordinance, such necessity or desirability to be conclusively evidenced by the execution of such instruments or agreements or the taking of such action.

SECTION 35. This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

Member of the Common Council

Attest:

City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2____, at _____ o'clock ____ . m.

City Clerk

Approved and signed by me on the _____ day of _____, 2____, at ____ o'clock ____ .m.

Mayor, City of South Bend, Indiana

DMS 4397180v1

1st READING
PUBLIC HEARING
3rd READING
NOT APPROVED
REFERRED
PASSED

Filed in Clerk's Office
OCT 19 2016
KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN