



City of Racine

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Legislative Report

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RESOLUTION AUTHORIZING THE ISSUANCE AND ESTABLISHING PARAMETERS
FOR THE SALE OF NOT TO EXCEED
\$20,000,000 WATERWORKS SYSTEM MORTGAGE REVENUE BONDS
AND PROVIDING FOR THE PAYMENT OF SAID BONDS
AND OTHER DETAILS AND COVENANTS WITH RESPECT THERETO

WHEREAS, the City of Racine, Racine County, Wisconsin (the "Municipality" or the "City") owns and operates a Waterworks System (the "System") which is operated for a public purpose as a public utility by the Municipality;

WHEREAS, under the provisions of Section 66.0621 of the Wisconsin Statutes any municipality may, by action of its governing body, provide funds for extending, adding to and improving a public utility from the proceeds of bonds, which bonds are to be payable only from the revenues received from any source by such utility, including all rentals and fees; and which bonds may be additionally secured by a mortgage lien upon such utility;

WHEREAS, the Municipality has outstanding its Waterworks System Mortgage Revenue Bonds, dated October 25, 2011 (the "2011 Bonds"), its Waterworks System Mortgage Revenue Refunding Bonds, dated July 10, 2012 (the "2012 Bonds"), its Waterworks System Mortgage Revenue Refunding Bonds, dated September 8, 2015 (the "2015 Bonds"), its Waterworks System Mortgage Revenue Refunding Bonds, dated September 7, 2016 (the "2016 Bonds"), its Waterworks System Mortgage Revenue Refunding Bonds, dated December 28, 2017 (the "2017 Bonds") and its Waterworks System Mortgage Revenue Bonds, dated February 19, 2019 (the "2019 Bonds"), which bonds are payable from the income and revenues of the System and are additionally secured by a mortgage lien on the System;

WHEREAS, the 2011 Bonds, the 2012 Bonds, the 2015 Bonds, the 2016 Bonds, the 2017 Bonds and the 2019 Bonds (collectively, the "Prior Bonds") were issued pursuant to Resolutions adopted by the Governing Body on October 4, 2011, June 19, 2012, August 18, 2015, August 16, 2016, December 20, 2017 and February 5, 2019 (collectively, the "Prior Resolutions");

WHEREAS, the Municipality also has outstanding its Waterworks System Revenue Bonds, Series 2004, dated December 22, 2004 (the "2004 Bonds") and its Waterworks System Revenue Bonds, Series 2015, dated May 27, 2015 (the "2015 Bonds"), which bonds are payable from the income and revenues of the System (collectively, the "Safe Drinking Water Bonds") and were authorized by resolutions adopted by the Governing Body on December 7, 2004 and May 19, 2015, respectively (the "Safe Drinking Water Bond Resolutions");

WHEREAS, the Safe Drinking Water Bonds are junior and subordinate to the Prior Bonds as to the pledge of income and revenues of the System;

WHEREAS, the Municipality has determined that certain additions, improvements and extensions to the System (the "Project") are necessary to adequately supply the needs of the Municipality and the residents thereof; and

WHEREAS, for the purpose of paying costs of the Project (including paying legal, financing and other professional fees in connection therewith), the Governing Body deems it to be necessary, desirable and in the best interest of the Municipality to authorize and sell waterworks system mortgage revenue bonds of the Municipality (the "Bonds") payable solely from the revenues of the System on a parity with the Prior Bonds, which Bonds are to be authorized and issued pursuant to the provisions of Section 66.0621, Wisconsin Statutes;

WHEREAS, the Prior Resolutions provide that additional bonds may be issued on a parity with the Prior Bonds upon compliance with certain conditions;

WHEREAS, the Safe Drinking Water Bond Resolutions provide that additional bonds may be issued which are senior to the Safe Drinking Water Bonds upon compliance with certain conditions;

WHEREAS, to the best of the Governing Body's knowledge, information and belief, all conditions precedent to the issuance of additional bonds set forth in the Prior Resolutions and the Safe Drinking Water Bond Resolutions have been or will be complied with prior to the issuance of the Bonds authorized by this Resolution;

WHEREAS, other than the Prior Bonds and the Safe Drinking Water Bonds, no other bonds or obligations payable from the revenues of the System are now outstanding;

WHEREAS, it is the finding of the Common Council that it is necessary, desirable and in the best interest of the Municipality to authorize the issuance of and to sell the Bonds to Robert W. Baird & Co. Incorporated (the "Purchaser");

WHEREAS, the Purchaser intends to submit a bond purchase agreement to the Municipality (the "Proposal") offering to purchase the Bonds in accordance with the terms and conditions to be set forth in the Proposal; and

WHEREAS, in order to facilitate the sale of the Bonds to the Purchaser in a timely manner, the Common Council hereby finds and determines that it is necessary, desirable and in the best interest of the Municipality to delegate to the Mayor and City Clerk (the "Authorized Officers") of the Municipality the authority to accept the Proposal on behalf of the City so long as the Proposal meets the terms and conditions set forth in this Resolution by executing a certificate in substantially the form attached hereto as Exhibit A and incorporated herein by reference (the "Approving Certificate").

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Municipality that:

Section 1. Definitions. The following terms shall have the following meanings in this Resolution unless the text expressly or by implication requires otherwise:

"Act" means Section 66.0621 of the Wisconsin Statutes;

"Annual Debt Service Requirement" means the total amount of principal and interest due on the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds in any Bond Year;

"Bond Proceeds" means amounts received by the Municipality from the sale of the Bonds;

"Bond Registrar" means Associated Trust Company, National Association, Green Bay, Wisconsin, which is herein appointed by the Governing Body pursuant to the provisions of Section 67.10(2), Wisconsin Statutes, to act as fiscal agent and paying agent for the Bonds;

"Bond Year" means the one-year period ending on a principal payment date for the Bonds;

"Bonds" means Waterworks System Mortgage Revenue Bonds of the Municipality dated their date of issuance and authorized to be issued by this Resolution;

"Code" means the Internal Revenue Code of 1986, as amended;

"Current Expenses" means the reasonable and necessary costs of operating, maintaining, administering and repairing the System, including salaries, wages, costs of materials and supplies, insurance and audits, but shall exclude depreciation, debt service, tax equivalents, replacements and capital expenditures.

"DTC" or "Depository" means The Depository Trust Company, New York, New York or its nominee or successor which shall act as securities depository for the Bonds;

"Fiscal Year" means the twelve month period beginning on January 1 of each year and ending on December 31 of the same year;

"Governing Body" means the Common Council of the Municipality, or such other body as may hereafter be the chief legislative body of the Municipality;

"Gross Revenues" shall include all revenues, income and earnings of the System derived from water charges imposed by the Municipality, all payments to the Municipality under any agreements between the Municipality and any contract users of the System, and any other moneys received from any source by the System including all rentals and fees;

"Municipality" or "City" means the City of Racine, Racine County, Wisconsin;

"Net Revenues" means Gross Revenues of the System after deduction of Current Expenses;

"Parity Bonds" means bonds payable from the revenues of the System other than the Bonds but issued on a parity and equality with the Bonds pursuant to the restrictive provisions of this Resolution;

"Project" means additions, improvements and extensions to the System. All elements of the Project are to be owned and operated by the Municipality as a part of the System as described in the preamble hereto;

"Purchaser" means Robert W. Baird & Co. Incorporated, Milwaukee, Wisconsin;

"Record Date" means the close of business on the 15th day of the calendar month next preceding any principal or interest payment date;

"Regulations" means the income tax regulations promulgated under the Code;

"Reserve Requirement" means the lesser of (a) the maximum amount of principal and interest due on the outstanding Prior Bonds and the Bonds in any Bond Year and (b) 125% of average annual debt service on the outstanding Prior Bonds and the Bonds. If Parity Bonds are issued, the Reserve Requirement shall be an amount equal to the lesser of (i) the maximum amount of principal and interest due on the outstanding Prior Bonds, the Bonds and the Parity Bonds in any Bond Year or (ii) 125% of average annual debt service on the outstanding Prior Bonds, the Bonds and the Parity Bonds;

"System" means the entire Waterworks System of the Municipality and all property of every nature now or hereafter owned by the Municipality for the collection, distribution and treatment of water, including all improvements and extensions thereto made by the Municipality while any of the Bonds and Parity Bonds remain outstanding, including all real and personal property of every nature comprising part of or used or useful in connection with such Waterworks System and including all appurtenances, contracts, leases, franchises and other intangibles.

Section 2. Authorization and Sale of the Bonds; Parameters. For the purpose of paying costs of the Project (including legal, fiscal and other expenses and funding a deposit to the Reserve Account), there shall be borrowed on the credit of the income and revenue of the System the principal sum of not to exceed TWENTY MILLION DOLLARS (\$20,000,000) from the Purchaser upon the terms and subject to the conditions set forth in this Resolution. Subject to satisfaction of the condition set forth in Section 11 of this Resolution, the Mayor and City Clerk are hereby authorized, empowered and directed to make, execute, issue and sell to the Purchaser for, on behalf of and in the name of the Municipality, Bonds aggregating the principal amount of not to exceed TWENTY MILLION DOLLARS (\$20,000,000). The purchase price to be paid to the Municipality for the Bonds shall not be less than 98.25% of the principal amount of the Bonds and the difference between the issue price of the Bonds provided by the Purchaser and the purchase price to be paid to the Municipality by the Purchaser shall not exceed 1.75% of the principal amount of the Bonds, with an amount not to exceed 1.00% of the principal amount of the Bonds representing the Purchaser's compensation and an amount not to exceed 0.75% of the principal amount of the Bonds representing costs of issuance payable by the Purchaser or the Municipality, including bond insurance premium, if any.

Section 3. Terms of the Bonds. The Bonds shall be designated "Waterworks System Mortgage Revenue Bonds"; shall be issued in the aggregate principal amount of up to \$20,000,000; shall be dated as of their date of issuance; shall be in the denomination of \$5,000 or any integral multiple thereof; and shall be numbered R-1 and upward. The Bonds shall mature or be subject to mandatory redemption on the dates and in the principal amounts set forth below, provided that the principal amount of each maturity or mandatory redemption amount may be increased or decreased by up to \$500,000 per maturity or mandatory redemption amount and that the aggregate principal amount of the Bonds shall not exceed \$20,000,000. If the principal amount due in any year is to be decreased by an amount in excess of the amount scheduled to mature in that year (based on the schedule set forth below) that maturity of the Bonds may be eliminated; provided, however, that the first principal maturity or scheduled mandatory redemption payment shall occur within three years of the date of issuance. The schedule below assumes the Bonds are issued in the aggregate principal amount of \$20,000,000.

<u>Date</u>	<u>Principal Amount</u>	<u>Date</u>	<u>Principal Amount</u>
09-01-2022	\$ 25,000	09-01-2032	\$1,165,000
09-01-2023	25,000	09-01-2033	1,205,000
09-01-2024	25,000	09-01-2034	1,230,000
09-01-2025	845,000	09-01-2035	1,260,000
09-01-2026	890,000	09-01-2036	1,290,000
09-01-2027	935,000	09-01-2037	1,315,000
09-01-2028	980,000	09-01-2038	1,345,000
09-01-2029	1,030,000	09-01-2039	1,375,000
09-01-2030	1,085,000	09-01-2040	1,405,000
09-01-2031	1,130,000	09-01-2041	1,440,000

Interest on the Bonds shall be payable on March 1 and September 1 of each year, commencing September 1, 2021. The true interest cost on the Bonds (computed taking the Purchaser's compensation into account) will not exceed 3.25%. Interest shall be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board.

The Bonds shall not be subject to optional redemption or shall be callable as set forth in the Approving Certificate. If the Proposal specifies that certain of the Bonds are subject to mandatory redemption, the terms of such mandatory redemption shall be set forth on an attachment to the Approving Certificate labeled as Schedule MRP. Upon the optional redemption of any of the Bonds subject to mandatory redemption, the principal amount of such Bonds so redeemed shall be credited against the mandatory redemption payments established in Exhibit MRP for such Bonds in such manner as the City shall direct.

Provided that the parameters described above are met, the schedule of maturities is hereby found to be such that the amount of annual debt service payments is reasonable in accordance with prudent municipal utility practices.

Section 3A. Parity with the Prior Bonds; Senior to Safe Drinking Water Bonds. The Bonds shall be additional bonds within the meaning of Section 9 of the Prior Resolutions, are

issued on a parity with the Prior Bonds and are secured by an equal lien and claim to the revenues and properties of the System and the monies on deposit in the Special Redemption Fund as set forth in the Prior Resolutions and this Resolution. In addition, the Bonds and any Parity Bonds are secured by a mortgage lien upon the System on a parity with the mortgage lien granted to the owners of the Prior Bonds.

The Bonds shall also be "additional senior bonds" within the meaning of Section 11 of the Safe Drinking Water Bond Resolutions. The Safe Drinking Water Bonds are junior and subordinate to the Prior Bonds and shall be junior and subordinate to the Bonds when the Bonds are issued.

Section 4. Form of the Bonds. The Bonds shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit B and incorporated herein by this reference.

Section 5. Security for the Bonds. The Bonds, together with interest thereon, shall not constitute an indebtedness of the Municipality nor a charge against its general credit or taxing power. The Bonds, together with interest thereon, shall be payable only out of the Special Redemption Fund hereinafter described, and shall be a valid claim of any holder thereof only against said Special Redemption Fund and the revenues of the System pledged to such fund. Sufficient revenues are hereby pledged to said Special Redemption Fund, and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds as the same becomes due. In addition, the Bonds and any Parity Bonds are secured by a mortgage lien upon the System on a parity with the mortgage lien granted to the owners of the Prior Bonds. It is the express intent and determination of the Governing Body that the amounts transferred from the Revenue Fund (defined below) and deposited in the Special Redemption Fund (defined below) shall be sufficient in any event to pay the interest on the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds as the same accrues and the principal amount thereof as the same matures, and to provide any amounts required to be paid monthly into the Reserve Account (defined below) to maintain the Reserve Requirement.

Section 6. Funds and Accounts. In accordance with the Act, for the purpose of the application and proper allocation of the revenues of the System, and to secure the payment of the principal of and interest on the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds, certain funds of the System were created by an Ordinance adopted on April 17, 1978, continued by the Prior Resolutions, and are hereby continued to be used solely for the following respective purposes:

(a) Waterworks Revenue Fund, into which shall be deposited as received the entire Gross Revenues of the System which monies shall then be divided among the Operation and Maintenance Fund, the Special Redemption Fund, the Depreciation Fund and the Surplus Fund in the amounts and in the manner set forth in Section 7 hereof and used for the purposes described below;

(b) Waterworks Operation and Maintenance Fund (the "Operation and Maintenance Fund"), which shall be used for the payment of Current Expenses;

(c) Waterworks Special Redemption Fund (the "Special Redemption Fund"), which shall be divided into two separate accounts to be known as the "Interest and Principal Account" and the "Reserve Account".

(i) There shall be deposited in the Interest and Principal Account from Bond Proceeds and any Parity Bond proceeds all accrued interest. In addition, there shall be deposited in said account in the manner specified in Section 7 hereof, an amount sufficient (after giving effect to available amounts in said account from accrued interest, investment earnings and any other source) to pay the principal of and interest on, first, the Prior Bonds, the Bonds and any Parity Bonds and, second, the Safe Drinking Water Bonds, as the same becomes due. The Interest and Principal Account shall be used solely for the purposes of paying principal of and interest on, first, the Prior Bonds, the Bonds, and any Parity Bonds, and, second, the Safe Drinking Water Bonds, in accordance with the provisions of this Resolution.

The minimum amounts to be so deposited in the Interest and Principal Account for debt service on the Bonds, in addition to the amounts required to be deposited for debt service on the Prior Bonds and the Safe Drinking Water Bonds, will be set forth on Schedule III to the Approving Certificate.

(ii) There shall be deposited into the Reserve Account an amount sufficient to make the amount on deposit therein equal to the Reserve Requirement. The Reserve Account shall be used solely for the purpose of paying principal of or interest on the Prior Bonds, the Bonds or any Parity Bonds at any time when there shall be insufficient money in the Interest and Principal Account. The Reserve Account shall be funded and replenished in the manner specified in Section 7 hereof. The Safe Drinking Water Bonds are not secured by the Reserve Account.

(d) Waterworks Depreciation Fund (the "Depreciation Fund"), which shall be used primarily to make good any depreciation in the System, to extend and improve the System, to make extraordinary repairs or replacements to the System and to make transfers to the Surplus Fund as provided in Section 6(e) hereof but which also may be used for the payment of principal of and interest on the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds at any time when there shall be insufficient money in the Special Redemption Fund and to remedy any deficiency in the Special Redemption Fund; and,

(e) Waterworks Surplus Fund (the "Surplus Fund"), which shall first be used whenever necessary to pay principal of or interest on the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds when the Special Redemption Fund shall be insufficient for such purpose, and thereafter shall be disbursed as follows:

(i) at any time, to remedy any deficiency in any of the funds or accounts provided in Section 7 hereof; and,

(ii) money thereafter remaining in the Surplus Fund at the end of any Fiscal Year may be transferred to any of the funds or accounts created herein, or to reimburse the general fund of the Municipality for advances made by the Municipality to the System.

Section 6A. Deposits and Investments. The Interest and Principal Account and the Reserve Account of the Special Redemption Fund each shall be kept apart from moneys in the other funds and accounts in the records of the Municipality and the Interest and Principal Account shall be used for no purpose other than the prompt payment of principal of and interest on first, the Prior Bonds, the Bonds and any Parity Bonds and, second, the Safe Drinking Water Bonds as the same becomes due and payable. The funds and accounts herein created may be temporarily invested until needed in legal investments.

Section 7. Application of Revenues. After the delivery of any of the Bonds or any Parity Bonds, the entire Gross Revenues of the System shall be deposited as collected in the Revenue Fund and shall be transferred monthly to the funds listed below in the following order of priority and in the manner set forth below:

(a) to the Operation and Maintenance Fund, an amount equal to the estimated Current Expenses for the current month and for the succeeding month (after giving effect to available amounts in said fund from prior deposits);

(b) to the Special Redemption Fund, for monthly transfer to the Interest and Principal Account thereof, an amount equal to one-sixth (1/6) of the next installment of interest coming due on the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds then outstanding and an amount equal to one-twelfth (1/12) of the installment of principal of the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds coming due on the next succeeding principal payment date (after giving effect to available amounts in said account from accrued interest, investment earnings or any other source). It is the express intent of the Governing Body that at all times the Interest and Principal Account constitute a "bona fide debt service account" and be depleted (except for a reasonable carryover as defined in the Regulations) at least once a year. Prior to each interest and principal payment date, the Municipality shall transfer from the Interest and Principal Account to the Bond Registrar the amounts required for the payment of the interest and principal coming due on the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds;

(c) to the Special Redemption Fund, for monthly transfer to the Reserve Account thereof, an amount equal to one-twelfth of the Reserve Requirement until the amount accumulated in the Reserve Account (after giving effect to amounts deposited in the Reserve Account from Bond Proceeds pursuant to Section 12 hereof, from any investment earnings or any other source) equals the Reserve Requirement. It is the intent of the Municipality that at all times the Reserve Account constitutes a "reasonably required reserve fund" under Section 148 of the Code and any applicable Regulations;

(d) to the Depreciation Fund, an amount of \$30,000; any money on deposit in the Depreciation Fund in excess of \$800,000 (or such larger amount as may hereafter and from time to time be established by the Governing Body), and not required during the current Fiscal Year for the purposes of said fund, may be transferred to the Surplus Fund; and,

(e) to the Surplus Fund, any amount remaining in the Revenue Fund after the monthly transfers required above have been completed.

Transfers from the Revenue Fund to the Operation and Maintenance Fund, the Special Redemption Fund, the Depreciation Fund and the Surplus Fund shall be made monthly not later than the 10th day of each month, and such transfers shall be applicable to moneys on deposit in the Revenue Fund as of the last day of the month preceding. Any other transfers and deposits within any fund or to any other fund or account required or permitted by subsections (a) through (e) of this Section, except transfers or deposits which are required to be made immediately or annually, shall be made on or before the 10th day of the month. Any transfer or deposit required to be made at the end of any Fiscal Year shall be made within sixty (60) days after the close of such Fiscal Year. If the 10th day of any month shall fall on a day other than a business day, such transfer or deposit shall be made on the next succeeding business day.

It is the express intent and determination of the Governing Body that the amounts transferred from the Revenue Fund and deposited in the Special Redemption Fund shall be sufficient in any event to pay the interest on the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds as the same accrues and the principal thereof as the same matures, and to provide any amounts required to be paid monthly into the Reserve Account.

Section 7A. Mortgage Lien. For the further protection of the owners of the Bonds, a mortgage lien is granted and created by Section 66.0621 of the Wisconsin Statutes and this Resolution, which lien is hereby recognized as valid and binding upon the Municipality and as a valid and binding first lien upon the System and any additions and improvements to be made thereto, on a parity with the mortgage granted to the owners of the Prior Bonds. In accordance with the provisions of Section 66.0621(4)(b) of the Wisconsin Statutes, such lien shall be perfected by recording this Resolution in the records of the Municipality.

Section 8. Service to the Municipality. The reasonable cost and value of services rendered to the Municipality by the System by furnishing waterworks services for public purposes, shall be charged against the Municipality and shall be paid by it as the service accrues, out of the current revenues of the Municipality collected or in the process of collection, exclusive of the revenues derived from the System, and out of the tax levy of the Municipality made by it to raise money to meet its necessary current expenses. However such payment out of the tax levy shall be subject to (a) approval of the Public Service Commission, or successors to its function, if necessary, (b) yearly appropriations therefor and (c) applicable levy limitations, if any; but neither this Resolution nor such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation over and above the reasonable cost and value of services rendered to the Municipality and its inhabitants or make any subsequent payment over and above such reasonable cost and value. Such compensation for such service rendered to the Municipality shall, in the manner hereinabove provided, be paid into the Revenue Fund referred to in Section 6 hereof.

Section 9. Prior Lien Bonds; Parity Bonds. The Bonds are issued on a parity with the Prior Bonds and senior to the Safe Drinking Water Bonds. The Municipality will issue no other bonds or obligations of any kind or nature payable from or enjoying a lien on the revenues or the properties of the System having a priority over the Bonds or any Parity Bonds.

Additional bonds may be issued on a parity and equality of rank with the Bonds and any Parity Bonds with respect to the lien and claim of such additional bonds to the revenues and

properties of the System and the moneys on deposit in the Special Redemption Fund, for the following purposes and under the following conditions but not otherwise:

(a) For the purpose of refunding any of the Bonds or any Parity Bonds which shall have matured or which shall mature not later than three (3) months after the date of delivery of such refunding bonds and for the payment of which there shall be insufficient moneys in the Special Redemption Fund; and,

(b) For the purpose of refunding any outstanding Bonds or any Parity Bonds, or purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, renewing, replacing, operating or managing the System, if all of the following conditions shall have been met:

(i) The Net Revenues for the last completed Fiscal Year preceding the issuance of such additional bonds must have been at least equal to one and one-quarter (1.25) times the highest combined annual interest and principal requirements on all Bonds and any Parity Bonds then outstanding payable from the revenues of the System (other than Bonds and any Parity Bonds being refunded), and the bonds so proposed to be issued, for any succeeding Fiscal Year in which there shall be a principal maturity on such outstanding bonds; provided, however, that if prior to the authorization of such additional bonds the Municipality shall have adopted and put into effect a revised schedule of rates, then the Net Revenues of the System for the last completed Fiscal Year which would, in the written opinion of an independent consulting engineer or independent certified public accountant employed for that purpose, have resulted from such rates had they been in effect for such period may be used in lieu of the actual Net Revenues for the last completed Fiscal Year;

(ii) The payments required to be made into the various funds and accounts provided herein must be current, and the Municipality must not be in default hereunder;

(iii) The additional bonds must be payable as to principal on September 1 of each year in which principal falls due, and payable as to interest semi-annually on March 1 and September 1; and,

(iv) The Reserve Account is funded to an amount equal to the Reserve Requirement applicable upon the issuance of Parity Bonds as set forth in Section 1 hereof to the extent such funding complies with the applicable provisions of the Code and any applicable Regulations.

Section 10. Covenants Regarding Operation of the System; Books and Accounts; and Insurance. The Municipality hereby covenants and agrees with each and every holder of the Bonds and any Parity Bonds as follows:

(a) The Municipality will faithfully and punctually perform all duties with reference to the System required by the Constitution and Statutes of the State of Wisconsin, including lawfully establishing reasonable and sufficient rates for services rendered by the System and collecting, depositing, applying and segregating the revenues of the System to the respective funds and accounts provided for in this Resolution;

(b) The Municipality will not sell, lease, or in any manner dispose of the System, including any part thereof or any additions or extensions that may be made part thereto, except that the Municipality shall have the right to sell, lease or otherwise dispose of any property of the System found by the Municipality to be neither necessary nor useful in the operation of the System, provided the proceeds received from such sale, lease or disposal shall be paid into the Special Redemption Fund or applied to the acquisition or construction of capital facilities for use in the normal operation of the System, and such payment shall not reduce the amounts otherwise required to be paid into the Special Redemption Fund;

(c) The Municipality will cause the Project to be completed as expeditiously as reasonably possible;

(d) The Municipality will maintain the System in reasonably good condition, will operate the System, and will establish, charge and collect such lawfully established rates and charges for the service rendered by the System, so that the amount of the revenues of the System herein agreed to be set aside to provide for payment of the Prior Bonds, the Bonds, the Safe Drinking Water Bonds and any Parity Bonds and the interest thereon as the same becomes due and payable will be sufficient for that purpose;

(e) The Municipality will prepare a budget not less than sixty (60) days prior to the end of each Fiscal Year and, in the event such budget indicates that earnings for each year will not exceed debt service for each corresponding year, will take any and all steps permitted by law to increase rates so that the earnings will equal or exceed debt service as promptly as possible;

(f) The Municipality will keep proper books and accounts relative to the System, separate from all other records of the Municipality, and will cause such books and accounts to be audited annually not later than six months after the close of each Fiscal Year by a recognized independent firm of certified public accountants, and will make available to the holders of any of the Bonds or any Parity Bonds the latest balance sheet and the profit and loss statement of the System as certified by such accountants. Any owner shall have the right at any reasonable time to inspect the System and the records, accounts and data of the System and the Municipality relating thereto. Each such audit, in addition to whatever matters may be thought proper by the accountant, shall include the following in accordance with generally accepted accounting practices: (1) a statement in detail of the income and expenditures of the System for the Fiscal Year; (2) a statement of the Net Revenues of the System for such Fiscal Year; (3) a balance sheet as of the end of such Fiscal Year; (4) the accountants' comment regarding the manner in which the Municipality has carried out the requirements of this Resolution, and the accountants' recommendation for any changes or improvements in the accounting methods of the System; (5) a list of the insurance policies in force at the end of the Fiscal Year setting out as to each policy the amount of the policy, the risks covered, the name of the insurer and the expiration date of the policy; and (6) the number and types of connections to the System at the end of each year; and

(g) So long as any of the Bonds or Parity Bonds are outstanding, the Municipality will carry, for the benefit of the owners of the Bonds and any Parity Bonds, insurance of a kind and in such amounts as would usually be carried by private companies or other public bodies engaged in operating a similar waterworks system. All money received for losses under any of such insurance policies, except public liability, shall be used in repairing the damage or in

replacing the property destroyed, but in the event that the Governing Body shall find it inadvisable to repair such damage or replace such property, and that the operation of the System shall not have been impaired thereby, such money may be deposited in the Revenue Fund, but shall not reduce the amount otherwise required to be paid into said Revenue Fund.

Section 11. Condition on Issuance and Sale of the Bonds. The issuance of the Bonds and the sale of the Bonds to the Purchaser are subject to approval by the Authorized Officers of the principal amount, definitive maturities, redemption provisions, interest rates and purchase price for the Bonds, which approval shall be evidenced by execution by the Authorized Officers of the Approving Certificate.

The Bonds shall not be issued, sold or delivered until this condition is satisfied. Upon satisfaction of this condition, the Authorized Officers are authorized to execute a Proposal with the Purchaser providing for the sale of the Bonds to the Purchaser.

Section 12. Application of Bond Proceeds; Excess Reserve Account Funds. The Bond Proceeds (including any premium and accrued interest from their date to the date of delivery) shall be deposited and applied as follows:

(a) to the Interest and Principal Account of the Special Redemption Fund, the amount of any accrued interest;

(b) to the Reserve Account of the Special Redemption Fund, an amount, if any, necessary to make the amount on deposit therein equal to the Reserve Requirement; and

(c) to the Waterworks System Improvement Fund, a special borrowed money fund hereby created and established, the balance of the Bond Proceeds, less the expenses incurred in authorizing, issuing and delivering the Bonds, to provide for the cost of the Project. Said Improvement Fund shall be adequately secured and shall be used solely for the purpose of meeting costs of purchasing, acquiring, constructing, extending, adding to, improving, operating and managing the System, as more fully described in the preamble hereof as the Project. Any balance remaining in said Improvement Fund after paying the costs of the Project shall be transferred to the Special Redemption Fund for use in payment of principal of or interest on the Bonds.

Upon issuance of the Bonds, any monies on deposit in the Reserve Account in excess of the Reserve Requirement shall be transferred to the Interest and Principal Account to be used for the purposes thereof.

Section 13. Discharge and Satisfaction of Bonds. The covenants, liens and pledges entered into, created or imposed pursuant to this Resolution may be fully discharged and satisfied with respect to outstanding Bonds and any Parity Bonds, or any of them, in any one or more of the following ways:

(a) By paying such Bonds and any Parity Bonds when the same shall become due and payable at maturity or upon prior redemption in the manner herein provided;

(b) By depositing with the Bond Registrar designated herein or with any fiduciary designated by subsequent resolution of this Governing Body, or in trust for such purpose, at or before the date of maturity or redemption, money in the necessary amount to fully pay or redeem such Bonds and any Parity Bonds, and to pay interest thereon to maturity or to the date of redemption; or,

(c) By depositing with the Bond Registrar designated herein or with any fiduciary designated by subsequent resolution of this Governing Body, or in trust for such purpose, at or before the date of maturity or redemption, money or direct obligations of, or obligations the principal of and interest on which are fully guaranteed by the United States of America, in such amount as, together with the income or increment to accrue thereon, will be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness of the Bonds and any Parity Bonds at or before their respective maturity dates; provided, that if such Bonds or any Parity Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been made or provided for; and provided further, that any such deposit shall be made only in a manner which does not render interest on such Bonds and any Parity Bonds subject to federal income taxation.

Upon such payment or deposit, in the amount and manner provided by this Section, all liability of the Municipality with respect to the Bonds and any Parity Bonds shall cease, determine and be completely discharged, and the holders thereof shall be entitled only to payment out of the money so deposited.

Section 14. Amendments to Resolution. After the issuance of any Bond or Parity Bond, no change or alteration of any kind in the provisions of this Resolution may be made until all of the Bonds and any Parity Bonds have been paid in full as to both principal and interest, or discharged as herein provided, except:

(a) The Municipality may, from time to time, amend this Resolution without the consent of any owners of the Bonds, but only to cure any ambiguity, administrative conflict, formal defect, or omission or procedural inconsistency of this Resolution; and,

(b) This Resolution may be amended, in any respect, with the written consent of the owners of not less than two-thirds (2/3) of the principal amount of the Bonds and any Parity Bonds then outstanding, exclusive of Bonds and any Parity Bonds held by the Municipality; provided, however, that no amendment shall permit any change in the pledge of revenues derived from the System, or in the maturity of or interest payment date of any Bond or Parity Bond issued hereunder, or a reduction in the rate of interest on any Bond or Parity Bond, or in the amount of the principal obligation thereof, or change the terms upon which the Bonds or any Parity Bonds may be redeemed, or make any other modification in the terms of the payment of such principal or interest without the written consent of the owner of each such Bond or any Parity Bond to which change is applicable.

Section 15. Arbitrage Covenant. The Municipality shall not take any action with respect to proceeds of the Bonds or any Parity Bonds (the "Bond Proceeds") which, if said action had been reasonably expected to have been taken, or had been deliberately and intentionally taken on

the date of delivery of said payment for the Bonds (the "Closing") would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.

The Bond Proceeds may be temporarily invested in legal investments until needed, provided however, that the Municipality hereby covenants and agrees that so long as the Bonds remain outstanding, moneys on deposit in any fund or account created or maintained in connection with the Bonds, whether such moneys were derived from Bond Proceeds or from any other source, will not be used or invested in a manner which would cause the Bonds to be "arbitrage bonds" within the meaning of the Code or Regulations. The Municipality covenants that it will not invest in any obligation if such investment would violate the "prohibited payment" requirement of Section 148 of the Code.

The City Clerk, or other officer of the Municipality charged with responsibility for issuing the Bonds, shall provide an appropriate certificate of the Municipality, for inclusion in the transcript of proceedings, setting forth the reasonable expectations of the Municipality regarding the amount and use of the Bond Proceeds and the facts and estimates on which such expectations are based, all as of the Closing.

Section 16. Compliance with Federal Tax Laws. (a) The Municipality represents and covenants that the projects financed by the Bonds and the ownership, management and use of the projects will not cause the Bonds to be "private activity bonds" within the meaning of Section 141 of the Code. The Municipality further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the tax-exempt status of the interest on the Bonds including, if applicable, the rebate requirements of Section 148(f) of the Code. The Municipality further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Bonds) if taking, permitting or omitting to take such action would cause any of the Bonds to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Bonds to be included in the gross income of the recipients thereof for federal income tax purposes. The City Clerk or other officer of the Municipality charged with the responsibility of issuing the Bonds shall provide an appropriate certificate of the Municipality certifying that the Municipality can and covenanting that it will comply with the provisions of the Code and Regulations.

(b) The Municipality also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Bonds provided that in meeting such requirements the Municipality will do so only to the extent consistent with the proceedings authorizing the Bonds and the laws of the State of Wisconsin and to the extent that there is a reasonable period of time in which to comply.

Section 17. Execution of the Bonds. The Bonds shall be prepared in typewritten or printed form, executed on behalf of the Municipality by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by the Fiscal Agent, sealed with its official or corporate seal, if any, or a facsimile thereof and delivered to the Purchaser upon payment to the Municipality of the purchase price thereof, plus accrued interest to the date of delivery. The facsimile signature of either of the officers executing the Bonds may be imprinted on the Bonds in lieu of the manual signature of the officer but, unless the Municipality has contracted with a fiscal agent to

authenticate the Bonds, at least one of the signatures appearing on each Bond shall be a manual signature. In the event that either of the officers whose signatures appear on the Bonds shall cease to be such officers before the delivery of the Bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until such delivery. The aforesaid officers are hereby authorized to do all acts and execute all documents, certificates and acknowledgements as may be necessary and convenient for effectuating the Closing. The Municipality hereby authorizes the officers and agents of the Municipality to enter into, on its behalf, agreements and contracts in conjunction with the Bonds, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and continuing disclosure, and rebate calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Bonds is hereby ratified and approved in all respects.

Section 18. Payment of the Bonds; Fiscal Agent. The principal of and interest on the Bonds shall be paid by Associated Trust Company, National Association, Green Bay, Wisconsin, which is hereby appointed as the Municipality's registrar and fiscal agent pursuant to the provisions of Section 67.10(2), Wisconsin Statutes (the "Fiscal Agent"). The Municipality hereby authorizes the Mayor and City Clerk or other appropriate officers of the Municipality to enter a Fiscal Agency Agreement between the Municipality and the Fiscal Agent. Such contract may provide, among other things, for the performance by the Fiscal Agent of the functions listed in Wis. Stats. Sec. 67.10(2)(a) to (j), where applicable, with respect to the Bonds.

Section 19. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the Municipality agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations, which the City Clerk or other authorized representative of the Municipality is authorized and directed to execute and deliver to DTC on behalf of the Municipality to the extent an effective Blanket Issuer Letter of Representations is not presently on file in the City Clerk's office.

Section 20. Undertaking to Provide Continuing Disclosure. The Municipality hereby covenants and agrees, for the benefit of the owners of the Bonds, to enter into a written undertaking (the "Undertaking") if required by SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule") to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be enforceable by the owners of the Bonds or by the Purchaser on behalf of such owners (provided that the rights of the owners and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations thereunder and any failure by the Municipality to comply with the provisions of the Undertaking shall not be an event of default with respect to the Bonds).

The City Clerk, or other officer of the Municipality charged with the responsibility for issuing the Bonds, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the Municipality's Undertaking.

Section 21. Official Statement. The Governing Body hereby directs the Authorized Officers to approve the Preliminary Official Statement with respect to the Bonds and deem the

Preliminary Official Statement as "final" as of its date for purposes of the Rule. All actions taken by the Authorized Officers or other officers of the Municipality in connection with the preparation of such Preliminary Official Statement and any addenda to it or Final Official Statement are hereby ratified and approved. In connection with the Closing, the appropriate municipal official shall certify the Preliminary Official Statement and any addenda or Final Official Statement. The City Clerk shall cause copies of the Preliminary Official Statement and any addenda or Final Official Statement to be distributed to the Purchaser.

Section 22. Bond Insurance. The Mayor and City Clerk and other officers of the Municipality are authorized to agree to such additional provisions as any municipal bond insurer which makes a commitment accepted by the Municipality to insure the Bonds may reasonably request and which are acceptable to the Authorized Officers, including provisions regarding restrictions on defeasance of the Bonds, investment of Bond Proceeds, the payment procedure under the municipal bond insurance policy, consent rights of the bond insurer, the rights of the bond insurer in the event of default and payment of the Bonds by the bond insurer and notices to be given to the bond insurer, and provisions relating to the bond insurance may be set forth in the Approving Certificate with the same force and effect as if set forth herein. In addition, appropriate reference to the municipal bond insurance policy shall be made in the Form of Bond provided herein.

Section 23. Resolution a Contract. The provisions of this Resolution shall constitute a contract between the Municipality and the owner or owners of the Bonds and any Parity Bonds, and after issuance of any Bond or any Parity Bond no change or alteration of any kind in the provisions of this Resolution may be made except as provided in Section 14 hereof, until all of the Bonds and any Parity Bonds have been paid in full as to both principal and interest. The owner or owners of any Bond or any Parity Bonds shall have the right in addition to all other rights, by mandamus or other suit or action in any court of competent jurisdiction, to enforce his or their rights against the Municipality, the Governing Body thereof, and any and all officers and agents thereof, including, but without limitation, the right to require the Municipality, its Governing Body and other authorized body, to fix and collect rates and charges fully adequate to carry out all of the provisions and agreements contained in this Resolution.

Section 24. Conflicting Resolutions, Ordinances, Severability, Closing and Effective Date. All prior ordinances and resolutions, other than the Prior Resolutions and the Safe Drinking Water Bond Resolutions, rules or other actions of the Governing Body or any parts thereof in conflict with the provisions hereof shall be and the same are hereby rescinded insofar as they may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof.

In case of any conflict between the terms of the Prior Resolutions and this Resolution, the Prior Resolutions shall prevail as long as any of the Prior Bonds authorized by such Resolutions are outstanding. The appropriate officers and agents of the Municipality are hereby directed and authorized to do all acts and execute and deliver all documents as may be necessary and convenient to effectuate the closing of this transaction. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.