

# COMMITTEE SESSION

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## AGENDA

### FORT WAYNE COMMON COUNCIL

DECEMBER 9, 2008

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5:30 P.M.                    COMMITTEE SESSION  
COMMON COUNCIL  
CONFERENCE ROOM 128

5:30 P.M.                    LEGAL PUBLIC HEARINGS  
COMMON COUNCIL  
CONFERENCE ROOM 128

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PRESIDING OVER THE STANDING  
COMMITTEE OF THE COMMON COUNCIL

THOMAS F. DIDIER  
PRESIDENT

SECRETARY OF THE COMMITTEE  
SESSION OF THE COMMON COUNCIL

SANDRA E. KENNEDY  
CITY CLERK

LEGAL ADVISOR TO MEMBERS  
OF THE COMMON COUNCIL

JOSEPH G. BONAHOOM  
COUNCIL ATTORNEY

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BENDER\_\_\_\_\_, BROWN\_\_\_\_\_, DIDIER\_\_\_\_\_,  
GOLDNER\_\_\_\_\_, HARPER\_\_\_\_\_, HINES\_\_\_\_\_,  
PAPE\_\_\_\_\_, SHOAFF\_\_\_\_\_, SMITH\_\_\_\_\_

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## ORDER OF THE AGENDA

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**1. ROLL CALL**

**2. LEGAL PUBLIC HEARINGS – PAGES 3 & 4**

**3. NEW MARKET TAX CREDIT PRESENTATION**  
**BY SHARON FEASEL – REDEVELOPMENT SPECIALIST**

**4. DISCUSSION OF PENDING**  
**ORDINANCES AND RESOLUTIONS – PAGES 5 THRU 7**

# LEGAL PUBLIC HEARINGS

## FINANCE COMMITTEE

*Thomas E. Smith - Chair  
Mitch Harper - Co-Chair  
All Council Members*

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### **A-08-11-29**

**AN ORDINANCE appropriating monies into certain accounts for the 2008 Budgets of various funds and departments of the City of Fort Wayne, reducing the unappropriated and unobligated balance of the particular fund involved as required to meet obligations for the remainder of 2008**

**Departments requests for additional monies to the 2008 budgets to**

**Provide sufficient operating funds for the remainder of the year**

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### **R-08-11-09**

**A CONFIRMING RESOLUTION designating an “Economic Revitalization Area” under I.C. 6-1.1-12.1 for property commonly known as 201 West Main Street, Fort Wayne, Indiana 46802 (Aptera Software, Inc.)**

**For both real and personal property improvements in the amount of \$508,425 – they will make interior and exterior renovations to the existing building. 15 full-time jobs will be created and 25 full-time jobs will be retained as a result of the project**

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### **R-08-11-11**

**A CONFIRMING RESOLUTION designating an “Economic Revitalization Area” under I.C. 6-1.1-12.1 for property commonly known as unassigned address, northeast corner of Fernhill Avenue and Wells Street, Fort Wayne, Indiana 46808 (CanLan Ice Sports)**

**For both real and personal property improvements in the amount of \$10,075,000 – they will construct a 100,000 square foot recreational ice facility – 15 full-time and 50 part time jobs are expected to be created as a result of the project**

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**LEGAL PUBLIC HEARINGS    CONTINUED**

**REGULATIONS COMMITTEE**

*Marty Bender - Chair  
Tim Pape - Co-Chair  
All Council Members*

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**G-08-11-06**

**AN ORDINANCE amending Chapter 51 of the City of Fort Wayne Code of Laws**

**Zanesville Area Capital Improvement Surcharge - improvement will be made - money involved \$33.19 per ERU for existing and new customers in the area of Zanesville**

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**ORDINANCES AND RESOLUTIONS UP FOR  
DISCUSSION**

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**FINANCE COMMITTEE**

*Thomas E. Smith - Chair  
Mitch Harper - Co-Chair  
All Council Members*

**ACTION**

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**A-08-11-29**

**AN ORDINANCE appropriating monies into certain accounts for the 2008 Budgets of various funds and departments of the City of Fort Wayne, reducing the unappropriated and unobligated balance of the particular fund involved as required to meet obligations for the remainder of 2008**

**Departments requesting additional monies to the 2008 budgets to provide sufficient operating funds for the remainder of the year**

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**R-08-11-30**

**A RESOLUTION authorizing the transfer of funds between certain accounts within the 2008 budgets of certain City Departments**

**It has become necessary to transfer funds to certain accounts  
Within the 2008 budget**

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**R-08-11-09**

**A CONFIRMING RESOLUTION designating an “Economic Revitalization Area” under I.C. 6-1.1-12/1 for property commonly known as 201 West Main Street, Fort Wayne, Indiana 46802 (Aptera Software, Inc.)**

**For both real and personal property improvements in the amount of \$508,425 – They will make interior and exterior renovations to an existing downtown building. 15 full-time  
Jobs will be created and 25 full-time jobs will be retained**

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## FINANCE COMMITTEE CONTINUED

### ACTION

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**R-08-11-11**

**A CONFIRMING RESOLUTION designating an “Economic Revitalization Area” under I.C. 6-1.1-12.1 for property commonly Known as unassigned address, northeast corner of Fernhill Avenue and Wells Street, Fort Wayne, Indiana 46808 (CanLan Ice Sports)**

**For both real and personal property improvements in the amount of \$10,075,000 – They will construction a 100,000 square foot recreational ice facility - 15 full-time and 50 part-time jobs are expected to be created as a result of the project**

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## REGULATIONS COMMITTEE

*Marty Bender - Chair*

*Tim Pape - Co-Chair*

*All Council Members*

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**G-08-11-06**

**AN ORDINANCE amending Chapter 51 of the City of Fort Wayne Code of Laws**

**Regarding Zanesville Area Capital Improvement Surcharge \$33.19 per ERU for existing and new customers in the area of Zanesville**

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**G-08-08-17**

**AN ORDINANCE to amend Chapter 96: “Noise Control” of the Municipal Code of Ordinances for the City of Fort Wayne, Indiana**

**Chapter 96: amended to read Noise Control and other Sensory Control”**

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**REGULATIONS COMMITTEE CONTINUED**

**G-08-10-19**

**AN ORDINANCE amending Chapter 153:  
Planning and Development, Designation of Economic Revitalization  
Areas and the Granting of Tax Abatements, of the Fort Wayne  
Municipal Code of Ordinances**

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**R-08-10-20**

**A RESOLUTION approving administrative procedures for  
processing applications for designation of Economic revitalization  
areas**

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**PUBLIC WORKS COMMITTEE**

*Liz Brown - Chair  
Glynn A. Hines - Co-Chair  
All Council Members*

**ACTION**

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**No Ordinances or Resolutions up for discussion**

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**CITY UTILITIES COMMITTEE**

*Karen Goldner - Chair  
John Shoaff - Co-Chair  
All Council Members*

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**S-08-11-07**

**AN ORDINANCE approving agreement for Resolution #95-11-12-08-  
01, sale and purchase of the Sanitary Sewer System for Zanesville  
between and the City of Fort Wayne, Indiana, in connection with the  
Board of Public Works  
Total cost of \$185,500**

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# REGULAR SESSION

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## AGENDA

FORT WAYNE COMMON COUNCIL

DECEMBER 9, 2008

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**REGULAR SESSION**  
**IMMEDIATELY FOLLOWING COMMITTEE SESSION**  
**COMMON COUNCIL CHAMBERS ROOM 126**

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**PRESIDING OVER THE STANDING**  
**COMMITTEE OF THE COMMON COUNCIL**

**THOMAS F. DIDIER**  
**PRESIDENT**

**SECRETARY OF THE REGULAR**  
**SESSION OF THE COMMON COUNCIL**

**SANDRA E. KENNEDY**  
**CITY CLERK**

**LEGAL ADVISORS TO MEMBERS**  
**OF THE COMMON COUNCIL**

**JOSEPH H. BONAHOOM**  
**COUNCIL ATTORNEY**

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BENDER\_\_\_\_\_, BROWN\_\_\_\_\_, DIDIER\_\_\_\_\_,  
GOLDNER\_\_\_\_\_, HARPER\_\_\_\_\_, HINES\_\_\_\_\_,  
PAPE\_\_\_\_\_, SHOAFF\_\_\_\_\_, SMITH\_\_\_\_\_

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## **ORDER OF THE AGENDA**

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**PRESENTATION OF NATIONAL COLORS**

**SERGEANT-AT-ARMS**

**ROLL CALL**

**SANDRA E. KENNEDY**  
**CITY CLERK**

**PRESIDENT'S REPORT AND COMMENTS**

**THOMAS F. DIDIER**  
**PRESIDENT**

**COMMUNICATIONS:**

**INTRODUCTION OF ORDINANCES AND RESOLUTIONS – PAGES 3 THRU 6**

**PASSAGE OF ORDINANCES AND RESOLUTIONS – PAGES 7 THRU 12**

**MISCELLANEOUS BUSINESS**

**CHAIR OPEN FOR COMMENTS – FROM CITIZENS AND COUNCIL MEMBERS**

**RETIREMENT OF COLORS**

**ADJOURNMENT**

**ORDINANCES AND RESOLUTIONS  
UP FOR INTRODUCTION**

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**FINANCE COMMITTEE**

*Thomas E. Smith - Chair  
Mitch Harper - Co-Chair  
All Council Members*

**ACTION**

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**R-08-12-02**  
A RESOLUTION approving the 2009 budget for the Downtown Fort Wayne Economic Improvement District

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**R-08-12-05**  
A RESOLUTION approving the purchase of certain real estate (1822 Edenton Drive) for the City of Fort Wayne, Indiana

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**R-08-12-06**  
A RESOLUTION approving the purchase of certain real estate (2006 Melbourne Court) for the City of Fort Wayne, Indiana

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**R-08-12-07**  
A RESOLUTION approving the purchase of certain real estate (5328 Kenton Lane) for the City of Fort Wayne, Indiana

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**S-08-12-08**  
AN ORDINANCE of the Common Council of the City of Fort Wayne, Indiana, authorizing the acquisition of certain improvements and extensions to the city's sewage works, the issuance and sale of additional revenue bonds to provide for the acquisition thereof, and

the collection, segregation and distribution of the revenues of such sewage works and other related matters

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**FINANCE COMMITTEE**

**CONTINUED**

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**R-08-12-11**

A RESOLUTION of the Common Council of the City of Fort Wayne, Indiana, authorizing the participation of said city in the Motor Fuel Hedge Program of the Indiana Bond Bank for the 2009 budget year, the execution of the qualified entity reimbursement agreement in Connection therewith and other related matters

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**REGULATIONS COMMITTEE**

*Marty Bender - Chair  
Tim Pape - Co-Chair  
All Council Members*

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**S-08-12-01**

AN ORDINANCE establishing the Neighborhood Stabilization Grant Funds

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**R-08-12-04**

A Resolution approving Resolution 2008-78 of the Fort Wayne Redevelopment Commission concerning a Lease and Sub Lease of equipment located in the West Highway 30 Economic Development area

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**G-08-12-12**

AN ORDINANCE amending Section 73.42 Sunset Provision: Ardmore Avenue and Freeman Street of the City of Fort Wayne, Indiana, code of ordinances

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**REGULATIONS COMMITTEE**

**CONTINUED**

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**S-08-12-10**

**AN ORDINANCE approving Interlocal Agreement – Spring Street Bridge over Norfolk Southern Railroad and the intersection of Spring Street and Leesburg Road between Allen County Board of Commissioners and the City of Fort Wayne, Indiana, in connection with the Board of Public Works**

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**PUBLIC WORKS COMMITTEE**

*Liz Brown - Chair  
Glynn A. Hines - Co-Chair  
All Council Members*

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**No Ordinances or Resolutions up for introduction**

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**CITY UTILITIES COMMITTEE**

*Karen Goldner - Chair  
John Shoaff - Co-Chair  
All Council Members*

**ACTION**

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**S-08-12-03**

**AN ORDINANCE approving the awarding of Increase of ITB #2826 –**

**Purchase of Liquid Ferric Chloride by the City of Fort Wayne,  
Indiana, by and through its Department of Purchasing and Kemira  
For the Water Pollution Control Plant**

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**CITY UTILITIES COMMITTEE CONTINUED**

**S-08-12-09**

**AN ORDINANCE approving Construction Contract #2095-2008,  
Kirkwood Park Partial Sewer Separation between Geiger Excavating  
and the City of Fort Wayne, Indiana, in connection with the Board of  
Public Works**

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**S-08-12-13**

**AN ORDINANCE approving the awarding of ITB #2929 – Purchase  
and delivery of liquid sodium hypochlorite by the City of Fort Wayne,  
Indiana, bu and through its Department of Purchasing and Brenntag  
for the Water Pollution Control Plant**

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**S-08-12-14**

**AN ORDINANCE approving the awarding of ITB #2940 – Purchase  
And delivery of liquid Ferric Chloride by the city of Fort Wayne,  
Indiana, by and through its Department of Purchasing and Kemira  
for the Water Pollution Control Plant**

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**ORDINANCES AND RESOLUTIONS  
UP FOR PASSAGE**

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**FINANCE COMMITTEE**  
*Thomas E. Smith - Chair*  
*Mitch Harper - Co-Chair*  
*All Council Members*

**ACTION**

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**A-08-11-29**

**AN ORDINANCE appropriating monies into certain accounts for the 2008 Budgets of various funds and departments to meet obligations for the remainder of 2008**

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**R-08-11-30**

**A RESOLUTION authorizing the transfer of funds between certain accounts within the 2008 budgets of certain City Departments**

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**R-08-11-09**

**A CONFIRMING RESOLUTION designating an “Economic Revitalization Area” property 201 West Main Street (Aptera Software, Inc.)**

**Total cost of 508,425 – 15 full-time jobs will be created and 25 full-time jobs will be retained**

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**R-08-11-11**

**A CONFIRMING RESOLUTION designating an “Economic Revitalization “ property known as unassigned address, northeast corner of Fernhill Avenue and Wells Street (CanLan Ice Sports)**

**Total cost of \$10,075,000 – 15 full-time and 50 part-time Jobs are expected to be created as a result of this project**

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**FINANCE COMMITTEE**

**CONTINUED**

**ACTION**

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**DO PASS S-08-07-28**  
**AN ORDINANCE of the Common Council of the City of Fort Wayne, Indiana authorizing the issuance and sale of additional County Economic Development Income Tax Revenue Bonds in an amount not to exceed Thirty Million and 00/100 Dollars**

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**DO PASS S-08-07-29**  
**AN ORDINANCE appropriating the proceeds derived from the sale of bonds to be issued and designated as “City of Fort Wayne, Indiana, County Economic Development Income Tax Revenue Bonds of 2008”**

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**DO PASS S-08-11-12**  
**AN ORDINANCE approving increase for the 2008 Garbage and Recycling Services between National Serv-All – Board of Public Works**  
**Total cost of \$200,000**

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**DO PASS S-08-11-13**  
**AN ORDINANCE approving the fourth year of a four year contract for Garbage and Recycling Service between National Serv-All – Board of Public Works**  
**Total cost \$8,807,646**  

<b>Garbage</b>	<b>\$7,688,486</b>
<b>Recycling</b>	<b>\$1,119,160</b>

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**DO PASS S-08-11-14**  
**AN ORDINANCE approving the fourth year of a four year contract for the maintenance of Garbage Containers - Board of Public Works**  
**Total cost of \$165,673**

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**FINANCE COMMITTEE CONTINUED**

**ACTION**

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**DO PASS S-08-11-15**  
**AN ORDINANCE approving increase in the leaf disposal purchase order between National Serv-All – Board of Public Works**  
**Total cost increase in the Purchase Order for Leaf Disposal during 2008: (from \$90,000 to \$124,000)**

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**DO PASS S-08-11-20**  
**AN ORDINANCE approving the awarding of purchase of passenger vehicles for various City Departments**  
**Total cost in excess of \$100,000+**

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**DO PASS S-08-11-21**  
**AN ORDINANCE awarding contract for the purchase of diesel, no-lead and B-20 fuel through the Fort Wayne Community School System and the Cooperative Purchasing Association of Fort Wayne for the Fleet Management, WPC Plant and Park Departments**  
**Total cost of \$4,386,958**

<b>AG Plus -</b>	<b>\$1,624,224</b>
<b>Lassus</b>	<b>\$2,762,734</b>

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**DO PASS S-08-11-22**  
**AN ORDINANCE approving contract for Professional Engineering Services Consultant – Wayne Trace; Oxford to McKee STP - Board of Public Works**  
**Total cost of \$240, 693.95**

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**DO PASS S-08-11-2 6**  
**AN ORDINANCE approving Extension of Landfill Services – National Serv-All for the Energy & Environment Services Department**  
**Total cost of in excess of \$100,000 – (\$26,32TON)**

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## **REGULATIONS COMMITTEE**

***Marty Bender - Chair***  
***Tim Pape - Co-Chair***  
***All Council Members***

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**G-08-11-06**

**AN ORDINANCE amending Chapter 51 of the City of Fort Wayne Code of Laws**

**Zanesville Area Capital Improvement Surcharge  
\$33.19 per ERU for all existing and new customers in the Area of Zanesville**

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**G-08-08-17**

**AN ORDINANCE to amend Chapter 96: "Noise Control" of the Municipal Code of Ordinances for the City of Fort Wayne, Indiana**

**Noise Control shall be amended to read "Noise Control And other Sensory Control"**

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**G-08-10-19**

**AN ORDINANCE amending Chapter 153: Planning and Development, Designation of Economic Revitalization Areas and the Granting of Tax Abatements, of the Fort Wayne Municipal Code of Ordinances**

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**R-08-10-20**

**A RESOLUTION approving administrative procedures for Processing applications for designation of Economic Revitalization Areas**

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## **PUBLIC WORKS COMMITTEE**

***Liz Brown - Chair  
Glynn A. Hines - Co-Chair  
All Council Members***

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**No Ordinances or Resolutions up for passage**

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## CITY UTILITIES COMMITTEE

*Karen Goldner - Chair  
John Shoaff - Co-Chair  
All Council Members*

### ACTION

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**S-08-11-07**

**AN ORDINANCE approving agreement for Resolution #95-11-12-08-01, sale and purchase of the Sanitary Sewer System for Zanesville - Board of Public Works  
Total cost of \$185,500**

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**DO PASS S-08-11-16**

**AN ORDINANCE approving purchase and delivery of Powdered Activated Carbon by the City of Fort Wayne, Indiana, for the Three Rivers Filtration Plant  
Total cost of \$245,440**

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**DO PASS S-08-11-17**

**AN ORDINANCE approving the awarding purchase of Liquid Ferric Sulfate for the Three Rivers Filtration Plant  
Total cost of \$630,000**

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## CITY UTILITIES COMMITTEE CONTINUED

### ACTION

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**DO PASS S-08-11-18**

**AN ORDINANCE approving purchase of Pebble Lime for the Three Rivers Filtration Plant  
Total cost of \$1,344,000**

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**DO PASS S-08-11-19**

**AN ORDINANCE approving purchase of Sodium Chlorite for a the Three Rivers Filtration Plant**

**Total cost of \$245,440**

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**DO PASS S-08-11-23**  
AN ORDINANCE approving extension of price agreement for the purchase of Large Water Meters – Water Maintenance & Service Department  
Total cost of \$264,036  
Elster \$87,085  
E.J. Prescott \$176,951

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**DO PASS S-08-11-24**  
AN ORDINANCE approving extension of price agreement for the purchase of Positive Displacement Water Meters - Water Maintenance & Service  
Total cost of \$361,800

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**DO PASS S-08-11-25**  
AN ORDINANCE approving extension of price agreement for the purchase of Fire Hydrants – Water Maintenance & Service Department  
Total cost of \$130,800

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**DO PASS S-08-11-27**  
AN ORDINANCE approving the increase purchase of Liquid Carbon Dioxide for the Three Rivers Filtration Plant  
Total cost of \$14,000 (Total expenditure \$109,845)

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**DO PASS S-08-11-28**  
AN ORDINANCE approving purchase of Liquid Carbon Dioxide for the Three Rivers Filtration Plant  
Total cost of \$105,000

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**PREPARED BY THE OFFICE  
OF THE CITY CLERK**

**SANDRA E. KENNEDY  
CITY CLERK**

**BILL NO. G-08-12-12**

**GENERAL ORDINANCE NO. G-\_\_\_\_\_**

**AN ORDINANCE AMENDING SECTION 73.42  
SUNSET PROVISION: ARDMORE AVENUE AND  
FREEMAN STREET OF THE CITY OF FORT  
WAYNE, INDIANA, CODE OF ORDINANCES**

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE  
CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That Section 73.42 Sunset Provision: Ardmore Avenue and Freeman Street, (A) (1) of the Code of Ordinances of the City of Fort Wayne, Indiana, be amended as follows:

§73.42       **SUNSET PROVISION: ARDMORE AVENUE  
AND FREEMAN STREET.**

A. (1) December 31, 2009, or

**SECTION 2.** That this Ordinance shall be in full force and effect and after its passage and any and all necessary approval by the Mayor.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Joseph G. Bonahoom, Council Attorney

BILL NO. R-08-12-02

RESOLUTION NO. R-\_\_\_\_\_

**RESOLUTION APPROVING THE 2009 BUDGET FOR  
THE DOWNTOWN FORT WAYNE ECONOMIC  
IMPROVEMENT DISTRICT**

**WHEREAS**, On October 24, 1995 the Common Council of the City of Fort Wayne ("Council") adopted Resolution R-70-95 (Bill Number R-95-09-21) which established the 'Downtown Fort Wayne Economic Improvement District' ("District"); and

**WHEREAS**, On January 10, 2006 the Common Council of the City of Fort Wayne ("Council") adopted Resolution R-08-06 (Bill Number R-05-12-22) which renewed the 'Downtown Fort Wayne Economic Improvement District' ("District") for the calendar years 2006 through 2015; and

**WHEREAS**, Indiana Code 36-7-22-17 requires that the Board of said District submit to for approval the annual budget for the District's upcoming year, on or before November 1<sup>st</sup>, and

**WHEREAS**, the mission of the District is to increase the value of downtown and mobilize leadership and resources to achieve the community's vision for downtown;

**WHEREAS**, the attached budget (Exhibit A), having been submitted by the due date to the City Clerk, directs the funding and operations for the District in 2009 in order to maintain and promote its mission.

**NOW THEREFORE BE IT RESOLVED BY THE**  
**COMMON COUNCIL OF THE CITY OF FORT**  
**WAYNE, INDIANA:**

**SECTION 1.** The 2009 Downtown Improvement District budget is approved as described in Exhibit A attached.

**SECTION 2.** This resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Carol Taylor, City Attorney

**BILL NO. R-08-12-04**

BILL NO. R-\_\_\_\_\_

**A Resolution approving Resolution 2008-78 of the Fort Wayne Redevelopment Commission concerning a Lease and Sub Lease of Equipment located in the West Highway 30 Economic Development Area.**

WHEREAS, on February 26, 2004, the Fort Wayne Redevelopment Commission adopted Resolution 2004-10, approving and confirming the establishment of the West Highway 30 Economic Development Area following approval by the Fort Wayne City Plan Commission and the Common Council of the City of Fort Wayne; and

Whereas, on October 20, 2008, and in conformity to the Economic Development Plan for the aforesaid area, the Fort Wayne Redevelopment Commission approved Resolution 2008-78 which proposed the lease and sub lease of equipment from SIRVA Worldwide Inc. as an economic development incentive undertaken in cooperation with the State of Indiana and the Ft Wayne Allen County Economic Development Alliance, all subject to final approval by the Common Council of the City of Fort Wayne; and

WHEREAS the legal public hearing regarding the proposed lease and sub lease of equipment was held on November 17, 2008; and

WHEREAS, the Fort Wayne Redevelopment Commission took the forgoing actions as set forth in the preceding two paragraphs herein are in accordance with the provisions of the Redevelopment of Blighted Areas Act of 1981 (P.L. 309 and 310 of the Acts of 1981 of the General Assembly of the State of Indiana, as amended and supplemented);

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That the said actions of the Fort Wayne Redevelopment Commission are hereby approved, ratified, and confirmed.

**SECTION 2.** That this resolution shall be in full force and affect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

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Carol Taylor, City Attorney

**A RESOLUTION APPROVING THE PURCHASE OF CERTAIN REAL ESTATE (1822 EDENTON DRIVE) FOR THE CITY OF FORT WAYNE, INDIANA.**

**WHEREAS**, the City of Fort Wayne desires to purchase property located at 1822 Edenton Drive, specifically described in "Exhibit "A," attached hereto and made a part hereof; and

**WHEREAS**, the purchase of this property is necessary for the City Utilities (Stormwater Management) flood mitigation plan for the Lawrence Drain.

**WHEREAS**, the purchase price for this property is ONE HUNDRED THREE THOUSAND, FIVE HUNDRED AND NO/100 DOLLARS – (\$103,500.00).

**WHEREAS**, Sec. 37-19 of the City of Fort Wayne Code of Ordinances, requires the Common Council approval of any purchase or conveyance of real estate by the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** The purchase of property located at 1822 Edenton Drive, by the City of Fort Wayne, is hereby approved and agreed to.

**SECTION 2.** This Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

---

Carol Taylor, City Attorney

**A RESOLUTION APPROVING THE  
PURCHASE OF CERTAIN REAL ESTATE  
(2006 MELBOURNE COURT) FOR THE CITY  
OF FORT WAYNE, INDIANA.**

**WHEREAS**, the City of Fort Wayne desires to purchase property located at 2006 Melbourne Court, specifically described in "Exhibit "A," attached hereto and made a part hereof; and

**WHEREAS**, the purchase of this property is necessary for the City Utilities (Stormwater Management) flood mitigation plan for the Lawrence Drain.

**WHEREAS**, the purchase price for this property is NINETY-THREE THOUSAND AND NO/100 DOLLARS – (\$93,000.00).

**WHEREAS**, Sec. 37-19 of the City of Fort Wayne Code of Ordinances, requires the Common Council approval of any purchase or conveyance of real estate by the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** The purchase of property located at 2006 Melbourne Court, by the City of Fort Wayne, is hereby approved and agreed to.

**SECTION 2.** This Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

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Carol Taylor, City Attorney

**A RESOLUTION APPROVING THE PURCHASE OF CERTAIN REAL ESTATE (5328 Kenton Lane) FOR THE CITY OF FORT WAYNE, INDIANA.**

**WHEREAS**, the City of Fort Wayne desires to purchase property located at 5328 Kenton Lane, specifically described in "Exhibit "A," attached hereto and made a part hereof; and

**WHEREAS**, the purchase of this property is necessary for the City Utilities flood mitigation plan for the Lawrence Drain.

**WHEREAS**, the purchase price for this property is ONE HUNDRED SIX THOUSAND AND NO/100 DOLLARS – (\$106,000.00).

**WHEREAS**, Sec. 37-19 of the City of Fort Wayne Code of Ordinances, requires the Common Council approval of any purchase or conveyance of real estate by the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** The purchase of property located at 5328 Kenton Lane, by the City of Fort Wayne, is hereby approved and agreed to.

**SECTION 2.** This Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

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Carol Taylor, City Attorney

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AUTHORIZING THE PARTICIPATION OF SAID CITY IN THE MOTOR FUEL HEDGE PROGRAM OF THE INDIANA BOND BANK FOR THE 2009 BUDGET YEAR, THE EXECUTION OF THE QUALIFIED ENTITY REIMBURSEMENT AGREEMENT IN CONNECTION THEREWITH AND OTHER RELATED MATTERS**

WHEREAS, the City of Fort Wayne, Indiana (the "City") owns and operates a fleet of motor vehicles which motor vehicles are essential to the ability of the City to serve and provide municipal services to the inhabitants of the City, thereby ensuring the safety and well-being of said inhabitants; and

WHEREAS, the Common Council of the City (the "Council"), the legislative body and fiscal body of the City, finds that the availability of motor vehicle fuel, which includes both gasoline and diesel motor fuel (collectively, "Motor Fuel"), is therefore critical to the City in providing such services; and

WHEREAS, the market-driven volatility of Motor Fuel presents a substantial risk to the Motor Fuel budget of the City, which may require the appropriation of additional funds for the purchase of Motor Fuel should prices increase beyond the amount of funds which have been appropriated for such purpose; and

WHEREAS, current market conditions limit the ability of the City to secure Motor Fuel with qualified suppliers of Motor Fuel in a manner which minimizes the adverse impacts of the volatile Motor Fuel market on the budget for the City; and

WHEREAS, the City has been advised by representatives of the Indiana Bond Bank (the "Bond Bank"), including Crowe Horwath LLP and Maverick Energy Consulting, that the Bond Bank has established a motor fuel hedge program (the "Program") pursuant to which "qualified entities", as defined in Indiana Code 5-1.5-1-8, may participate for the purpose of managing and mitigating the volatility of Motor Fuel prices in order to achieve budget stability; and

WHEREAS, the Council finds that the City is a qualified entity and is eligible to participate in the Program for the 2009 budget year; and

WHEREAS, the City's Department of Public Works (the "Department") has considered the matter of the City's participation in the Program and has adopted a resolution recommending to the Council that the City participate in the Program; and

WHEREAS, the Council, having considered the information presented to it, including the recommendation of the Department, finds that (i) participation in the Program will allow the City to manage and mitigate the volatility of Motor Fuel prices in order to achieve stability in the City's Motor Fuel budget for the 2009 budget year, (ii) participation in the Program will enhance the City's ability to continue to operate its motor vehicle fleet in an economical matter to assure the continued provision of municipal services to the inhabitants of the City, and (iii) the City is authorized to participate in the Program pursuant to Indiana Code 5-1.5, 36-1-4 and 36-9-6; and

WHEREAS, the Bond Bank has caused to be prepared a Qualified Entity Reimbursement Agreement in connection with the Program, attached hereto as Exhibit A and incorporated

herein by reference (the "Agreement"), for execution by and between the City and the Bond Bank; and

WHEREAS, the Bond Bank intends to enter into agreements substantially the same as the Agreement with other qualified entities in connection with the Program; and

WHEREAS, the Agreement has been reviewed by the Council, which has had an opportunity to obtain independent advice and counsel with respect thereto, and has also had the opportunity to review the Agreement with the Bond Bank and seek explanation of the provisions thereof from the Bond Bank; and

WHEREAS, the Agreement sets forth the obligations of the City with respect to its participation in the Program during the term of the Agreement; and

WHEREAS, based upon the foregoing, the Council finds and determines that the City should participate in the Program for the 2009 budget year, that the Agreement should be approved and that any other actions necessary to be taken to assure the City's participation in the Program for the 2009 budget year should be approved;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:**

Section 1. The findings and determinations set forth in the preambles to this Resolution are hereby made findings and determinations of the City.

Section 2. The City is hereby authorized to enter into the Program with the Bond Bank for the purpose of managing and mitigating the volatility of Motor Fuel prices in order to achieve budget stability for the 2009 budget year.

Section 3. The Agreement, in the form attached hereto as Exhibit A, is hereby approved by the Council so that the City may participate in the Program. The Mayor of the City is hereby authorized and directed to execute and deliver, and the Controller of the City is hereby authorized and directed to attest, the Agreement, and to approve any such changes in form or substance thereto which are consistent with the terms of this Resolution, such changes to be conclusively evidenced by its execution. The Mayor, Clerk and Controller of the City, and any officer of the Department, are hereby further authorized and directed to take such other actions or deliver such other certificates as are necessary or desirable in connection with the City's participation in the Program and the other documents needed for the City's participation in the Program as they deem necessary or desirable in connection therewith.

Section 4. The obligations of the City under the Agreement shall be payable from and shall not exceed the amount appropriated by the City for Motor Fuel for the 2009 budget year. The Controller is hereby authorized and directed to make any payments necessary to the Bond Bank pursuant to the terms of the Agreement from funds budgeted by the City for Motor Fuel for the 2009 budget year.

Section 5. All resolutions and parts of resolutions in conflict herewith are hereby repealed.

Section 6. This Resolution shall be in full force and effect upon its passage by the Council and approval by the Mayor of the City as required by law.

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Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Taylor, City Attorney

**EXHIBIT A**

*Form of Qualified Entity Reimbursement Agreement*

**AN ORDINANCE ESTABLISHING THE NEIGHBORHOOD STABILIZATION GRANT FUNDS.**

**WHEREAS**, the City of Fort Wayne will receive a new allotment of funds from the U.S. Department of Housing and Urban Development under the Housing & Economic Recovery Act of 2008, and,

**WHEREAS**, these dollars will be accounted for and appropriated in accordance with the purpose of these funds; and,

**WHEREAS**, these dollars will have limited uses, and,

**WHEREAS**, there may remain year end balances.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** The Neighborhood Stabilization Program Funds shall be established for the purpose of 1) establishing financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers; 2) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties; 3) establish land banks for homes that have been foreclosed upon; 4) demolish blighted structures; 5) redevelop demolished or vacant properties; and 5) paying expenses of administering the program.

**SECTION 2.** Balances remaining at year end may remain in those accounts and carry forward into the following year for appropriate use without additional approval required by the Common Council.

**SECTION 3.** During the 5-year period following the date of enactment of this Act, any revenue generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use that is in excess of the cost to acquire and redevelop (including reasonable

development fees) or rehabilitate an abandoned or foreclosed upon home or residential property shall be provided to and used by the City in accordance with, and in furtherance of, the intent and provisions of HERA. After such time the remaining program income shall be converted to Fund 175 for use under the Community Development Block Grant (CDBG) Program.

**SECTION 4.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

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Carol Taylor, City Attorney

**BILL NO. S-08-12-03**

**SPECIAL ORDINANCE NO. S-\_\_\_\_\_**

**AN ORDINANCE** approving the awarding of INCREASE OF ITB #2826 - PURCHASE OF LIQUID FERRIC CHLORIDE by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and KEMIRA for the WATER POLLUTION CONTROL PLANT.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA;**

**SECTION 1.** That INCREASE OF ITB #2826 - PURCHASE OF LIQUID FERRIC CHLORIDE between the City of Fort Wayne, by and through its Department of Purchasing and KEMIRA for WATER POLLUTION CONTROL PLANT, respectfully for:

additional 2008 purchase of Liquid Ferric Chloride for the Water Pollution Control Plant

involving a total cost of SIXTY THOUSAND AND NO/100 DOLLARS - (\$60,000.00) - (2008 TOTAL PURCHASE - \$153,622.50) all as more particularly set forth in said INCREASE OF ITB #2826 - PURCHASE OF LIQUID FERRIC CHLORIDE which is on file in the Office of the Department of Purchasing, and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved.

**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

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Carol T. Taylor, City Attorney

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AUTHORIZING THE ACQUISITION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE CITY'S SEWAGE WORKS, THE ISSUANCE AND SALE OF ADDITIONAL REVENUE BONDS TO PROVIDE FOR THE ACQUISITION THEREOF, AND THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SUCH SEWAGE WORKS AND OTHER RELATED MATTERS**

WHEREAS, the City of Fort Wayne, Indiana (the "City"), owns and operates a sewage works by and through its Board of Public Works (the "Board") for the collection and treatment of sewage and other wastes (the "Sewage Works"), pursuant to the provisions of Indiana Code 36-9-23, as amended (the "Act");

WHEREAS, the Board has determined and recommended to the Common Council of the City (the "Common Council") that the City enter into an Agreement for Purchase and Sale of Wastewater Collection System (the "Purchase Agreement") between the City and Town of Zanesville, Indiana (the "Town"), to provide for the City to acquire certain sewage collection system improvements owned by the Town (referred to herein as the "Zanesville Improvements") which serve approximately 380 customers located in Allen County and Wells County, Indiana;

WHEREAS, the Town Council of the Town previously adopted Ordinance No. 1995-5 (the "Zanesville Ordinance") which authorized the issuance of its sewage works revenue bonds (the "Zanesville Bonds") in an aggregate principal amount not to exceed \$2,650,500;

WHEREAS, the Town previously issued the Zanesville Bonds pursuant to the Zanesville Ordinance and a Financial Assistance Agreement between the Town and the State of Indiana

dated July 10, 1995 (the "Zanesville Agreement"), to the Indiana Bond Bank in an aggregate principal amount of \$2,100,000, presently outstanding in an aggregate principal amount of \$906,000 and bearing interest at a per annum rate of 2.0%, which Zanesville Bonds are registered in the name of the Indiana Bond Bank;

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

WHEREAS, as a result of the issuance of the Zanesville Bonds, the Town entered into an Agreement for Services to Hold in Trust Part of the Sinking Fund with The Bank of New York Mellon Trust Company, N.A.(the "Bank") dated as of August 16, 2007 (the "Reserve Fund Agreement"), which provides for the Bank to hold the Reserve Account required under the Zanesville Ordinance and requires the Town to make monthly deposits into said Reserve Account until the Reserve Requirement (defined in the Zanesville Ordinance) is fully funded all as set forth in the Reserve Fund Agreement and the Town has agreed to transfer the balances held pursuant to the Reserve Fund Agreement (subject any of the Town's sinking fund balances being used to pay accrued and unpaid interest on the Zanesville Bonds to the date of issuance of the 2008 Bonds, as hereinafter defined) to be transferred to a similar agreement between the City and the Bank to secured the 2008 Bonds;

WHEREAS, pursuant to the Agreement, the City agrees, as part of the purchase price for the City to acquire the Zanesville Improvements (the "Acquisition"), to assume the obligations of the Town under the Zanesville Bonds;

WHEREAS, the Common Council hereby determines that to evidence its assumption of the Zanesville Bonds, it will be necessary for the City to issue its sewage works revenue bonds in an amount not to exceed Nine Hundred Six Thousand and 00/100 Dollars (\$906,000.00);

WHEREAS, pursuant to Ordinance No. S-63-97 adopted by the Common Council on July 1, 1997, as amended by Ordinance No. S-21-98 adopted by the Common Council on February 24, 1998 (collectively, the "1998 Bond Ordinance"), the City has heretofore issued two series of revenue bonds payable from the net revenues of the Sewage Works, with the first series designated as "Sewage Works Junior Revenue Bonds of 1998, Series A" (the "1998 A Bonds"), outstanding after August 1, 2008, in the amount of \$3,615,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2012, and the second series of bonds designated as "Sewage Works Junior Revenue Bonds of 1998, Series B" (the "1998 B Bonds"), outstanding after August 1, 2008, in the amount of \$5,740,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2012; and

WHEREAS, pursuant to Ordinance No. S-01-02-23 adopted by the Common Council on January 8, 2002, as amended by Ordinance No. S-02-04-13, adopted by the Common Council on May 14, 2002 (collectively, the "2002 Bond Ordinance"), the City heretofore issued two series of revenue bonds payable from the net revenues of the Sewage Works with the first series designated as "Junior Sewage Works Revenue Bonds, Series 2002 A" (the "2002 A Bonds") outstanding after August 1, 2008, in an aggregate principal amount not to exceed \$19,225,000 bearing interest at four percent (4.0%) and maturing in various amounts annually on August 1 in the years 2009 to 2023, and the

second series of bonds designated as "Junior Sewage Works Refunding and Improvement Revenue Bonds, Series 2002 B (the "2002 B Bonds") outstanding after August 1, 2008, in the amount of \$10,950,000 bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to 2017; and

WHEREAS, pursuant to Ordinance No. S-126-02 adopted by the Common Council on October 22, 2002 (the "2002 C Bond Ordinance), the City has heretofore issued revenue bonds payable from the net revenues of the Sewage Works, designated as "Sewage Works Junior Revenue Bonds, Series 2002 C" (the "2002 C Bonds"), outstanding after August 1, 2008, in the amount of \$3,815,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2017; and

WHEREAS, pursuant to Ordinance No. S-44-03 adopted by the Common Council on April 8, 2003 (the "2003 Bond Ordinance"), the City has heretofore issued revenue bonds payable from the net revenues of the Sewage Works, designated as "Sewage Works Junior Revenue Bonds, Series 2003" (the "2003 Bonds"), outstanding after August 1, 2008, in the amount of \$8,835,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2018; and

WHEREAS, pursuant to Ordinance No. S-129-05 adopted by the Common Council on August 23, 2005 (the "2005 Bond Ordinance"), the City has heretofore issued revenue bonds payable from the net revenues of the Sewage Works, designated as "Sewage Works Revenue Bonds, Series 2005" (the "2005 Bonds"), outstanding after August 1, 2008, in the amount of \$35,440,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2025; and

WHEREAS, pursuant to Ordinance No. S-60-07 adopted by the Common Council on June 12, 2007 (the "2007 Bond Ordinance" and with the 1998 Bond Ordinance, the 2002 Bond Ordinance, the 2002 C Bond Ordinance, the 2003 Bond Ordinance and the 2005 Bond Ordinance, the "Prior Ordinances"), the City has heretofore issued revenue bonds payable from the net revenues of the Sewage Works, designated as "Sewage Works Junior Revenue Bonds, Series 2007" (the "2007 Bonds" and with the 1998 A Bonds, the 1998 B Bonds, the 2002 A Bonds, the 2002 B Bonds, the 2002 C Bonds, the 2003 Bonds, the 2005 Bonds, and the 2007 Bonds, the "Prior Bonds"), outstanding after August 1, 2008, in the amount of \$23,445,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2027; and

WHEREAS, the Prior Ordinances permit the issuance of additional bonds without satisfying the provisions of the parity provisions contained therein to the extent such additional bonds are subordinate and junior in all respects to the Prior Bonds; and

WHEREAS, the Common Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of revenue bonds on a junior and subordinate basis with the Prior Bonds and any bonds issued on a parity basis with the Prior Bonds (collectively referred to herein as the "Senior Bonds") to evidence the assumption of the obligations represented by the Zanesville Bonds in conjunction with the acquisition of the Zanesville Improvements by the City, have been complied with in accordance with the provisions of the Act;

WHEREAS, the Common Council therefore seeks to authorize the issuance of revenue bonds on a junior and subordinate basis to the Senior Bonds to evidence the assumption of the obligations represented by the Zanesville Bonds in conjunction with the acquisition of the Zanesville Improvements by the City pursuant to the Act and the sale of such revenue bonds to the Indiana

Finance Authority (the "Authority") pursuant to the provisions of Indiana Code 13-18-13, subject to and dependent upon the terms and conditions hereinafter set forth;

WHEREAS, in conjunction with the issuance of any such bonds sold to the Authority, the City expects to enter into a Financial Assistance Agreement (as hereinafter defined) with the Authority, pertaining to the Acquisition and a related financing.

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

**Acquisition of the Zanesville Improvements. The City, acting by and through the Board and as the owner and operator of the Sewage Works for the collection and treatment of sewage and other wastes, hereby orders, authorizes and directs the Board to acquire the Zanesville Improvements. The actions of the Board in connection with the acquisition of the Zanesville Improvements and the assumption of the obligations represented by the Zanesville Bonds are hereby authorized, approved, ratified and confirmed.**

Where used in this Ordinance, the term "City" shall be construed also to include any department, board, commission or officer or officers of the City or of any City department, board or commission. The terms "Sewage Works," "sewage works," "works" and similar terms used in this Ordinance shall be construed to mean and include the existing structures and property of the Treatment Works, as defined in the Financial Assistance Agreement, and all enlargements, improvements, extensions and additions thereto, and replacements thereof, now or subsequently constructed or acquired (including the Zanesville Improvements), from the proceeds of the bonds authorized herein or otherwise. Such improvements and extensions shall be constructed and the bonds herein authorized shall be issued pursuant to the provisions of this Ordinance and the Act.

**Description of the Zanesville Improvements. The Zanesville Improvements are more fully described in the Purchase Agreement. The City, acting by and through the Board, shall proceed with the acquisition of the Zanesville Improvements and shall enter into all contracts necessary or appropriate for such purpose, in conformity with and subject to the requirements and conditions set forth in this Ordinance and in the Act.**

**The 2008 Bonds. In accordance with the Act and for the purpose of providing funds with which to pay the costs of the Acquisition, together with all authorized costs relating thereto including the costs of issuance of the 2008 Bonds, as hereinafter defined, on account thereof, the City shall issue and sell its junior sewage works revenue bonds in the aggregate principal amount not to exceed Nine Hundred Six 00/100 Dollars (\$906,000.00) (the "2008 Bonds"). The principal of and interest on the 2008 Bonds shall be payable on a junior and subordinate basis with the Senior Bonds solely out of the Sewage Works Sinking Fund referred to below.**

The 2008 Bonds shall be issued and designated as the "City of Fort Wayne, Indiana, Junior Sewage Works Revenue Bonds, Series 2008" (the "2008 Bonds"). The 2008 Bonds shall be issued as fully registered bonds in denomination or denominations of One Dollar (\$1). The 2008 Bonds shall be numbered consecutively from 2008R-1 upward and shall bear interest at a rate not exceeding two percent (2.0%) per annum. Interest on the 2008 Bonds shall be calculated on the basis of twelve (12) thirty (30)-day months for a three hundred and sixty (360)-day year and shall be payable semiannually on February 1 and August 1 in each year (each an "Interest Payment Date"), commencing on the first February 1 or August 1, following the original date of the Bonds as determined by the Controller, with the advice of the City's financial advisor, or as set forth in the Financial Assistance Agreement to be entered into between the City and the Authority (the "Financial Assistance

Agreement"), until principal is fully paid. The principal of the 2008 Bonds shall mature serially and annually on August 1 of each year, over a period ending no later than August 1, 2016, and in the years and amounts to be determined by negotiation with the Authority.

The 2008 Bonds shall bear an original issue date which shall be the date of issuance of the 2008 Bonds or the first day of the month in which the 2008 Bonds are delivered, as determined by the Controller (unless otherwise provided in the Financial Assistance Agreement in the event such series of the 2008 Bonds is sold to the Authority), and each 2008 Bond shall also bear the date of its authentication. Any 2008 Bond authenticated on or before the fifteenth (15th) day of the calendar month immediately preceding the first Interest Payment Date, shall pay interest from its original issue date. Any 2008 Bond authenticated thereafter shall pay interest from the Interest Payment Date next preceding the date of authentication of such 2008 Bond to which interest thereon has been paid or duly provided for, unless such 2008 Bond is authenticated after the day which is fifteen (15) days prior to the Interest Payment Date and on or before such Interest Payment Date, in which case interest thereon shall be paid from such Interest Payment Date.

The Controller shall be designated as the Registrar and Paying Agent and shall be charged with the performance of all of the duties and responsibilities of Registrar and Paying Agent.

Principal of and interest on the 2008 Bonds, if registered in the name of the Authority, shall be paid by wire transfer to a financial institution if and as directed by the Authority on the due date of such payment or, if such date is a day when financial institutions are not open for business, on the business day immediately preceding such due date. So long as the Authority is the registered owner of the 2008 Bonds, the 2008 Bonds shall be presented for payment as directed by the Authority. All payments on the 2008 Bonds shall be made in any coin or currency of the United States of America which, on the dates of such payments, shall be legal tender for the payment of public or private debt.

Each 2008 Bond shall be transferable or exchangeable only on the books of the City maintained for such purpose at the principal corporate trust office of the Registrar, by the registered owner thereof in person, or by his or her attorney duly authorized in writing, upon surrender of such 2008 Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or his or her attorney duly authorized in writing, and thereupon a new fully registered 2008 Bond or 2008 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. Each 2008 Bond may be transferred or exchanged without cost to the registered owner, except for any tax or other governmental charge which may be required to be paid with respect to such transfer or exchange. The Registrar shall not be obligated to make any transfer or exchange of any 2008 Bond (i) during the fifteen (15) days immediately preceding an Interest Payment Date or (ii) after the mailing of notice calling such 2008 Bond for redemption. The City, the Registrar and the Paying Agent may treat and consider the person in whose name any 2008 Bond is registered as the absolute owner thereof for all purposes including the purpose of receiving payment of, or on account of, the principal thereof and interest thereon.

In the event any 2008 Bond is mutilated, lost, stolen or destroyed, the City may cause to be executed and the Registrar may authenticate a new 2008 Bond of like date, maturity, series and denomination as the mutilated, lost, stolen or destroyed 2008 Bond, which new 2008 Bond shall be marked in a manner to distinguish it from the 2008 Bond for which it was issued; provided, that in the case of any mutilated 2008 Bond, such mutilated 2008 Bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed 2008 Bond there shall be first furnished to the Registrar evidence of such loss, theft or destruction satisfactory to the City and the Registrar, together with indemnity satisfactory to them. In the event that any such mutilated, lost, stolen or destroyed 2008

Bond shall have matured or been called for redemption, instead of causing to be issued a duplicate 2008 Bond, the Registrar and Paying Agent may pay the same upon surrender of the mutilated 2008 Bond or upon satisfactory indemnity and proof of loss, theft or destruction in the case of a lost, stolen or destroyed 2008 Bond. The City and the Registrar and Paying Agent may charge the owner of any such 2008 Bond with their reasonable fees and expenses in connection with the above. Every substitute 2008 Bond issued by reason of any 2008 Bond being lost, stolen or destroyed shall, with respect to such 2008 Bond, constitute a substitute contractual obligation of the City pursuant to this Ordinance, whether or not the lost, stolen or destroyed 2008 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 2008 Bonds duly issued hereunder.

In the event that any 2008 Bond is not presented for payment or redemption on the date established therefor, the City may deposit in trust with the Paying Agent an amount sufficient to pay such 2008 Bond or the redemption price thereof, as appropriate, and thereafter the owner of such 2008 Bond shall look only to the funds so deposited in trust with the Paying Agent for payment and the City shall have no further obligation or liability with respect thereto.

Interest on 2008 Bonds sold to the Indiana Finance Authority shall be paid no sooner than February 1, 2009, and on each February 1 and August 1 thereafter to maturity. Interest on 2008 Bonds issued to finance all other costs which are authenticated on or before the Record Date which precedes the first interest payment date shall be paid from their original date. Interest on 2008 Bonds authenticated subsequent to the Record Date which proceeds the first interest payment date thereon shall be paid from the interest payment date to which interest has been paid as of the date on which such 2008 Bonds are authenticated, unless a 2008 Bond is authenticated between the Record Date and the interest payment date in which case the interest shall be paid from such interest payment date.

**Redemption of the 2008 Bonds. The 2008 Bonds shall be subject to redemption at the option of the City in inverse order of maturity, in whole or in part, upon sixty (60) days written notice to the registered owner or owners of 2008 Bonds to be redeemed, on any date in whole or in part, at face value plus accrued interest to the date fixed for redemption.**

Official notice of such redemption shall be mailed by the Registrar and Paying Agent by certified or registered mail at least sixty (60) days and not more than ninety (90) days prior to the scheduled redemption date to each of the registered owners of the 2008 Bonds called for redemption (unless waived by any such registered owner) at the address shown on the registration books of the Registrar and Paying Agent, or at such other address as is furnished in writing by such registered owner to the Registrar; provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any 2008 Bond shall not affect the validity of the proceedings for the redemption of any other 2008 Bonds. The notice shall specify the redemption price, the date and place of redemption, and the registration numbers (and, in case of partial redemption, the respective principal amounts) of the 2008 Bonds called for redemption. The place of redemption may be at the principal corporate trust office of the Registrar and Paying Agent or as otherwise determined by the City. Interest on the 2008 Bonds (or portions thereof) so called for redemption shall cease to accrue 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 redemption date and when such 2008 Bonds (or portions thereof) are presented for payment. Any 2008 Bond redeemed in part may be exchanged for a 2008 Bond or 2008 Bonds of the same maturity in authorized denominations equal to the remaining principal amount thereof.

**Execution and Authentication of the 2008 Bonds. The 2008 Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor of the**

City (the "Mayor"), countersigned by the manual or facsimile signature of the Controller and attested by the manual or facsimile signature of the Clerk of the City (the "Clerk"), who shall cause the seal of the City or a facsimile thereof to be affixed to each of the 2008 Bonds. The 2008 Bonds shall be authenticated by the manual signature of the Registrar, and no 2008 Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed. In case any official whose signature appears on any 2008 Bond shall cease to be such official before the delivery of such 2008 Bond, the signature of such official shall nevertheless be valid and sufficient for all purposes, the same as if such official had been in office at the time of such delivery. Subject to the provisions of this Ordinance regarding the registration of the 2008 Bonds, the 2008 Bonds shall be fully negotiable instruments under the laws of the State of Indiana.

Security and Sources of Payment for the 2008 Bonds. The 2008 Bonds, when fully paid for and delivered to the purchaser thereof as to both principal and interest, shall be valid and binding special revenue obligations of the City, payable solely from and secured by an irrevocable pledge of and constituting a charge upon all of the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) derived from the Sewage Works, including all such net revenues from the existing works, the Zanesville Improvements and all additions and improvements thereto and replacements thereof subsequently constructed or acquired, to be set aside into the Sewage Works Sinking Fund as herein provided; provided, however, the 2008 Bonds shall rank on a junior and subordinate basis with the Senior Bonds. The City shall not be obligated to pay the 2008 Bonds or the interest thereon except from the net revenues of the Sewage Works subject to the lien of the Senior Bonds on such net revenues, and the

2008 Bonds shall not constitute an indebtedness of the City within the meaning of the provisions and limitations of the constitution of the State of Indiana.

Form of the 2008 Bonds. The form and tenor of the 2008 Bonds shall be substantially as set forth in Appendix A attached hereto and incorporated herein as if set forth at this place (with all blanks to be filled in properly and all necessary additions and deletions to be made prior to the delivery thereof).

Issuance, Sale and Delivery of the 2008 Bonds.

Generally. The Controller is hereby authorized and directed to have the 2008 Bonds prepared, and the Mayor and the Clerk are each hereby authorized and directed to execute, and attest as appropriate, the 2008 Bonds in the form and manner herein provided. The Controller is hereby authorized and directed to deliver the 2008 Bonds to the purchaser or purchasers thereof after sale made and in accordance with the provisions of the Act and this Ordinance, provided that at the time of said delivery the Controller shall collect the full amount which the purchaser or purchasers have agreed to pay therefor, which shall be not less than ninety-nine percent (99%) of the par amount of the 2008 Bonds (or such higher percentage of the par value of the 2008 Bonds as the Controller, with the advice of the financial advisor of the City, shall determine)

plus accrued interest thereon to the date of delivery. The City may receive payment for the 2008 Bonds in installments. The proceeds derived from the sale of the 2008 Bonds shall be and are hereby set aside for application to the costs of the Acquisition, and including all authorized costs relating thereto, including the costs of issuance of the 2008 Bonds. The authorized officers of the City are hereby authorized and directed to draw all proper and necessary warrants and to do whatever other acts and things that may be necessary or appropriate to carry out the provisions of this Ordinance.

Sale to the Authority. The 2008 Bonds shall be sold to the Authority. The Board is hereby authorized to submit an application to the wastewater SRF loan program under Indiana Code 13-18-13. As a part of said program, the Financial Assistance Agreement for the 2008 Bonds and the Acquisition shall be executed by the City and the Authority. The substantially final form of Financial Assistance Agreement attached as Appendix B hereto and incorporated herein as if set forth in this place is hereby approved by the Common Council, and the Mayor and the Clerk are hereby

authorized to execute the same on behalf of the City, and to approve any changes in form or substance to the Financial Assistance Agreement, such approval to be conclusively evidenced by its execution. The Financial Assistance Agreement may set forth the definitive terms and conditions for such sale including the purchase price and interest rate, but all of such terms and conditions must be consistent with the terms and conditions of this Ordinance, including, without limitation, the interest rates on the 2008 Bonds which shall not exceed the maximum rate of interest for the 2008 Bonds authorized pursuant to this Ordinance. 2008 Bonds sold to the Authority shall be accompanied by all documentation required by the Authority pursuant to Indiana Code 13-18-13, and the Financial Assistance Agreement, including, without limitation, an approving opinion of a nationally recognized bond counsel, certification and guarantee of signatures and certification as to no litigation pending, as of the date of delivery of the 2008 Bonds to the Authority, challenging the validity or issuance of the 2008 Bonds. The entry by the City into the Financial Assistance Agreement and the execution

of the Financial Assistance Agreement by the Mayor, and, if required, the entry by the City into any other agreement with the Authority and the execution thereof by the Mayor, in accordance with this Ordinance are hereby authorized, approved and ratified.

Opinion of Bond Counsel. Prior to the delivery of the 2008 Bonds, the Mayor, subject to the direction of the Common Council, shall obtain a legal opinion as to the validity of the 2008 Bonds from Baker & Daniels LLP, Fort Wayne, Indiana, bond counsel for the City, with such opinion to be furnished to the purchaser of the 2008 Bonds at the expense of the City. The costs of bond counsel's fee in preparing and delivering such opinion and in the performance of related services in connection with the issuance, sale and delivery of the 2008 Bonds, shall be considered as a part of the cost of the Acquisition and shall be paid out of the proceeds of the 2008 Bonds.

Segregation and Application of Sewage Works Revenues. All revenues derived from the operation of the Sewage Works and from the collection of sewage rates and charges shall be deposited in a special fund of the City (the "Revenue Fund") and segregated and kept separate and apart from all other funds and bank accounts of the City. Out of said

revenues the proper and reasonable expenses of operation, repair and maintenance of the Sewage Works shall be paid, the principal and interest of all bonds and fiscal agency charges of bank paying agents shall be paid, and the costs of replacements, extensions, additions and improvements shall be paid as hereinafter provided. Payments in lieu of taxes shall be made not more frequently than semiannually on June 30 and December 31 and may be made only if the amounts required to be held as of such dates in the Sewage Works Sinking Fund (as defined herein) are so held.

Sewage Works Sinking Fund. There shall be set aside and paid into the Sinking Fund previously established for the Prior Bonds (the "Sinking Fund") three (3) business days prior to the first day of each calendar month, the net revenues of said Sewage Works for the payment of (a) the interest on and principal of all Senior Bonds which Senior Bonds, by their terms, are payable from the revenues of the Sewage Works as such interest and principal shall fall due; (b) the necessary fiscal agency charges for paying said bonds and interest; (d) an additional amount as a margin of safety, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal not less than ten percent (10%) of all other amounts so required to be paid into the Sinking Fund; (e) any amounts necessary to maintain a balance in the Sewage Works Reserve Account equal to the Sewage Works Reserve Requirement as defined below; and (f) the interest on and principal of the 2008 Bonds and any bonds issued on a parity therewith which amount shall be deposited into the Junior Bond Principal and Interest Account established below to the extent sufficient revenues are available.

The monthly payments into the Sinking Fund for the Senior Bonds shall be in an amount equal to at least one-twelfth (1/12) of the amount required for such payments during the then next

succeeding twelve (12) calendar months and shall continue until such time as the Sinking Fund shall contain an amount sufficient to pay all of the Senior Bonds then outstanding, together with the interest thereon to the dates of maturity thereof. In addition to said required monthly payments into the Sinking Fund, all of the net revenues of the Sewage Works not used in making said required payments shall be set aside and paid into the Sinking Fund monthly, as available, until there has been accumulated in the Sinking Fund, over and above said required payments but including the funded reserves and investment income thereon, an amount equal to the sum of the principal of and interest on all then outstanding Senior Bonds which will be payable during the then next succeeding twelve (12) calendar months. The Sinking Fund shall be maintained at such levels, and additional amounts of net revenues shall be deposited in the Sinking Fund to the extent necessary to maintain such levels.

The Sewage Works Reserve Account will be held as a debt service reserve for the Senior Bonds and credited to the City's obligation to accumulate net revenues in the Sinking Fund in addition to the required monthly payments or as a margin of safety with respect to such Senior Bonds. There shall be held in said Sewage Works Reserve Account an amount which equals the combined maximum annual debt service with respect to the Senior Bonds (the "Senior Reserve Requirement") and which amount will be decreased on the second day of each January to the maximum annual debt service on then outstanding Senior Bonds; provided that the City shall give 15 days prior written notice to the Authority before transferring funds out of the Sewage Works Reserve Account. Notwithstanding the foregoing, the amount on deposit in the Sewage Works Reserve Account shall not be less than that required to satisfy the Senior Reserve Requirement. The Senior Reserve Requirement is hereby determined to be reasonable. All money in the Sewage Works Reserve Account shall be used and withdrawn by the City solely for the purpose of making payment on the Senior Bonds to the extent that available moneys in the Sinking Fund are insufficient for such purpose, or to make the final payments on

such bonds when money in the Sewage Works Reserve Account, together with other money held in the Sinking Fund, is sufficient to make all remaining payments to final maturity, provided, notwithstanding the foregoing, amounts in the Sewage Works Reserve Account in excess of the Senior Reserve Requirement may be transferred from time to time to the Sewage Works Operation and Maintenance Fund or, if such fund is funded in accordance with Section 11 hereof, to the Sewage Works Replacement Fund. If amounts on deposit in the Sewage Works Reserve Account shall, at any time, be less than the Senior Reserve Requirement, such deficiency shall be made up over a twelve (12) month period to restore the balance of the Sewage Works Reserve Account to an amount equal to the Sewage Works Reserve Requirement.

In the event any bonds are hereafter issued which are payable from the net revenues of the Sewage Works on a parity with the Prior Bonds, such Senior Reserve Requirement shall be equal to the combined maximum annual debt service on the Senior Bonds; provided, however, that in the event at the time of issuance of any such bonds it is determined by national recognized bond counsel that maintenance of a reserve at an amount equal to combined maximum annual debt service would preclude the interest on such bonds from excludible from gross income for federal income tax purpose, then the City may issue such bonds by an authorizing ordinance which shall provide that in lieu of being secured by or payable from the Sewage Works Reserve Account created herein, such bonds will be secured by and payable from a separate reserve account therein created with a reserve requirement fixed at the maximum amount then determined as not precluding the interest on such bonds from excludible from gross income for federal income tax purpose, but in no event less than the amount which may be required to have such bonds be on parity with the Senior Bonds. The Sewage Works Reserve Account shall not be used to make payments on any outstanding bonds other than on the Senior Bonds.

Any excess revenues of the Sewage Works available after making the deposits required by Sections 10 and 11 above may be used to provide or restore any debt service reserve account established to secure junior bonds as hereafter contemplated.

In no event shall any part of the Sinking Fund be used in purchasing bonds, except to the extent that the amount then in the Sinking Fund (other than the Sewage Works Reserve Account) exceeds the amount required to pay the principal of the bonds payable therefrom which will mature within a period of twelve (12) calendar months next following the date of such purchase, together with all interest on the bonds payable. Any such excess of funds above said required levels may be used in purchasing outstanding bonds at a price less than the applicable price at maturity, if first approved by the Board of Public Works and Safety. Moneys in the Sinking Fund shall not be used for any other purpose whatsoever except as provided in this Ordinance.

If the City shall, for any reason, fail to pay into the Sinking Fund the full amount and at the respective times above stipulated, then an amount equivalent to such deficiency shall be set apart and paid into the Sinking Fund from the first available revenues and the same shall be in addition to the minimum amounts otherwise herein provided to be so set apart and paid.

Withdrawals shall be made from the Sinking Fund and remitted to the places of payment of the interest and principal to meet such payments when due.

The Sinking Fund, as aforesaid, shall be used solely and only and is hereby pledged for the purpose of paying principal of and interest on the Senior Bonds which by their terms are payable from said funds. Upon the delivery of said bonds and the receipt of the proceeds, all sums received as accrued interest shall be placed in the Sinking Fund.

There is hereby created and established a Junior Bond and Interest Account (the "Junior Bond and Interest Account") for the payment of the interest on and principal of the 2008 Bonds. After

making all the necessary credits into the Sinking Fund and the Sewage Works Reserve Account with respect to the Senior Bonds, the monthly payments into the Junior Bond and Interest Account shall be in an amount equal to at least (a) one-twelfth (1/12) of the amount required for such principal payments during the then next succeeding twelve (12) calendar months and (b) one-sixth (1/6) of the amount required for such interest payments during the then next succeeding six (6) calendar months, and shall continue until such time as the Junior Bond and Interest Account shall contain an amount sufficient to pay all of the 2008 Bonds then outstanding, together with the interest thereon to the dates of maturity thereof. In addition to said required monthly payments into the Junior Bond and Interest Account, all of the net revenues of the Sewage Works after the deposits set out above into the Sinking Fund and the Sewage Works Reserve Account for the Senior Bonds and not used in making said required payments shall be set aside and paid into the Junior Bond and Interest Account, as available, until there has been accumulated in the Junior Bond and Interest Account, over and above said required payments but including the funded reserves and investment income thereon, an amount equal to the sum of the principal of and interest on all then outstanding 2008 Bonds which will be payable during the then next succeeding twelve (12) calendar months. The Junior Bond and Interest Account shall be maintained at such levels, and additional amounts of net revenues shall be deposited in the Junior Bond and Interest Account to the extent necessary to maintain such levels.

The Junior Sewage Works Reserve Account (the "Junior Reserve Account") is hereby created and established will be held as a debt service reserve for the 2008 Bonds and credited to the City's obligation to accumulate net revenues in the Junior Bond and Interest Account in addition to the required monthly payments or as a margin of safety with respect to such 2008 Bonds. There shall be held in said Junior Reserve Account an amount which equals the combined maximum annual debt service with respect to the 2008 Bonds (the "Junior Reserve Requirement") and which amount will be

decreased on the second day of each January to the maximum annual debt service on then outstanding 2008 Bonds; provided that the City shall give 15 days prior written notice to the Authority before transferring funds out of the Junior Reserve Account. Notwithstanding the foregoing, the amount on deposit in the Junior Reserve Account shall not be less than that required to satisfy the Junior Sewage Works Reserve Requirement. The Junior Reserve Requirement is hereby determined to be reasonable.

All money in the Junior Reserve Account shall be used and withdrawn by the City solely for the purpose of making payment on the 2008 Bonds to the extent that available moneys in the Junior Bond and Interest Account are insufficient for such purpose, or to make the final payments on such bonds when money in the Junior Reserve Account, together with other money held in the Junior Bond and Interest Fund, is sufficient to make all remaining payments to final maturity, provided, notwithstanding the foregoing, amounts in the Junior Reserve Account in excess of the Junior Reserve Requirement may be transferred from time to time to the Sewage Works Operation and Maintenance Fund or, if such fund is funded in accordance with Section 11 hereof, to the Sewage Works Replacement Fund. If amounts on deposit in the Junior Reserve Account shall, at any time, be less than the Junior Reserve Requirement, such deficiency shall be made up over a twelve (12) month period after deposits to the Sinking Fund and the Sewage Works Reserve Account with respect to the Senior Bonds and to the Junior Bond and Interest Account to restore the balance of the Junior Reserve Account to an amount equal to the Junior Reserve Requirement. The Senior Bonds shall not be secured by or payable from deposits held in the Junior Bond and Interest Account or Junior Reserve Account, nor shall the 2008 Bonds be secured by or payable from any deposits to the Sinking Fund and the Sewage Works Reserve Account made and held with respect to the Senior Bonds.

**Funding Improvements to the Sewage Works. In the event that all required deposits in the Sinking Fund have been made with respect to the Senior Bonds (including in**

the Sewage Works Reserve Account) and with respect to the 2008 Bonds (including in the Junior Bond and Interest Account and the Junior Reserve Account), and there has been accumulated an amount in a separate fund heretofore created and designated as the Sewage Works Operation and Maintenance Fund and hereby continued (the "Sewage Works Operation and Maintenance Fund") sufficient for operation, repair and maintenance of the Sewage Works for the then next succeeding twelve (12) calendar months, and for depreciation, then any excess revenues of the Sewage Works available may be placed in the separate fund heretofore created and designated as the Sewage Works Replacement Fund and hereby continued (the "Sewage Works Replacement Fund"). Moneys in the Sewage Works Replacement Fund may be used to pay the costs of improvements, betterments, extensions, enlargements and additions to the Sewage Works. No revenues of the Sewage Works shall be deposited in or credited to the Sewage Works Replacement Fund which will interfere with the requirements of the Sinking Fund, the accumulation of the required reserves therein, or with the requirements as to reserving funds for the operation, maintenance and repair of the Sewage Works and for depreciation. All or any portion of the funds accumulated and reserved for operation, repair and maintenance for the then next succeeding twelve (12) calendar months in the Sewage Works Operation and Maintenance Fund shall be transferred first to the Sinking Fund if necessary to prevent a default in the payment of principal or interest on the Senior Bonds, second to restore the Senior Reserve Requirement, third to the Junior Bond and Interest Account if necessary to prevent a default in the payment of principal of and interest on the 2008 Bonds or any bonds hereinafter issued on a parity therewith, and fourth, to restore the Junior Reserve Requirement.

**Books of Record and Accounts. The City shall keep proper books of record and accounts, separate from all of its other records and accounts, in which completed and correct entries shall be made showing all revenues collected from said works and deposited in said funds, and all disbursements made therefrom on account of the operation of the works, and to meet the requirements of the Sinking Fund and the accounts created therein, and all other financial transactions relating to said works, including the amounts set aside or credited to the Sinking Fund and the accounts created therein, the Sewage Works Operation and Maintenance Fund and the Sewage Works Replacement Fund, and the cash balances in each of said funds and accounts described herein as of the close of the preceding fiscal year. There shall be prepared and furnished to the original purchaser of the 2008 Bonds, and, upon written request, to any owner of the 2008 Bonds at the time then outstanding, not more than one hundred twenty (120) days after the close of each fiscal year, complete financial statements of the works, covering the preceding fiscal year, which annual statements shall be certified by the Controller, or by licensed independent public accountants employed for that purpose. Copies of all such statements and reports shall be kept on file in the office of the Controller. Any owner or owners of the 2008 Bonds then outstanding shall have the right at all reasonable times to inspect the works and all records, accounts and data of the City relating thereto. Such inspections may be made by representatives duly authorized by written instrument.**

The City shall establish and maintain the books and other financial records of the Zanesville Improvements (including the establishment of a separate account or subaccount for the Zanesville Improvements) and the Sewage Works in accordance with (i) generally accepted accounting standards for utilities, on an accrual basis, as promulgated by the Government Accounting Standards Board, and (ii) the rules, regulations, and guidance of the State Board of Accounts.

**Rates and Charges. The City covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the services rendered by said works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said Sewage Works by or through any part of the sewage works system of the City, or that in any way uses or is served by such sewage works, at a level adequate to produce and maintain sufficient revenue (including user and other charges, fees, income, or revenues available to the City) to provide for the proper Operation and Maintenance (as defined in the Financial Assistance Agreement) of the works, to comply with and satisfy all covenants contained in this Ordinance and the Financial Assistance Agreement, and for the payment of the sums required to be paid into the Sewage Works Sinking Fund by the Act and this Ordinance; and that such rates or charges shall be sufficient in each year to produce net revenues, as defined in Section 6 of this Ordinance, at least equal to 1.1 times the greater of the average annual debt service on the Senior Bonds, the 2008 Bonds and all bonds on a parity therewith or the debt service payable during the next succeeding twelve (12) calendar months on the Senior Bonds, the 2008 Bonds and all bonds on a parity therewith. For these purposes, the interest rate on variable rate debt shall be assumed to be the average interest rate thereon in the preceding calendar year.**

Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of Operation and Maintenance of the Sewage Works and the requirements of the Sewage Works Sinking Fund. The rates or charges so established shall apply to any and all use of such Sewage Works by and service rendered to the City and all departments thereof and shall be paid no less frequently than semi-annually by the City or the various departments thereof as the charges accrue.

Defeasance. If, when the 2008 Bonds issued hereunder (or portions 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 2008 Bonds (or portions thereof) for redemption shall have been given, and the whole amount of the principal and the interest so due and payable upon all of the 2008 Bonds (or portions thereof) then outstanding shall be paid; or (i) sufficient moneys, or (ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, the principal of and the interest on which when due will provide sufficient moneys, or (iii) time certificates of deposit fully secured as to both principal and interest by obligations of the kind described in (ii) above of a bank or banks the principal of and interest on which when due will provide sufficient moneys, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the 2008 Bonds (or portions thereof) issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the net revenues of the City's Sewage Works.

Additional Bonds. The City also reserves the right to authorize and issue additional bonds, payable out of the net revenues of its Sewage Works), ranking either senior to or on a parity with the bonds authorized by this Ordinance, for the purpose of financing the cost of future additions, extensions and improvements to the Sewage Works, subject to the following conditions:

The interest on and principal of all bonds payable from the revenues of the Sewage Works shall have been paid to date in accordance with the terms thereof, provided, this condition shall be

deemed satisfied if any required amount is to be provided from the proceeds of the parity bonds or other funds of the City.

As of the date of issuance of such additional bonds, the balance in the Junior Reserve Account shall equal not less than the Junior Sewage Works Reserve Requirement calculated to include principal and interest requirements on the 2008 Bonds, any then outstanding parity bonds and the additional parity bonds proposed to be issued, provided, this condition shall be deemed satisfied if any required amount is to be provided from the proceeds of the newly issued parity bonds or other funds of the City, and furthermore, the ordinance authorizing the proposed additional parity bonds must include a provision requiring the City to build the balance in the Junior Reserve Account to an amount equal to the Junior Works Reserve Requirement for the proposed additional parity bonds, unless the Junior Reserve Account is fully funded as of the time of issuance of the additional parity bonds, from available net revenues within twelve (12) months from substantially equal monthly deposits after required monthly deposits to the Sinking Fund.

The principal of said additional parity bonds shall be payable on August 1 and the interest on said additional parity bonds shall be payable semiannually on February 1 and August 1 during the periods in which such principal and interest are payable, and, if the additional parity bonds are issued as capital appreciation bonds, the amount payable at maturity thereof shall be payable on February 1 and/or August 1 during the periods in such maturity amounts are payable.

If the 2008 Bonds are owned by the Authority, (i) the City has obtained the prior written consent of the Authority, (ii) the City has faithfully performed and is in compliance with each of its obligations, agreements, and covenants contained in the Financial Assistance Agreement and this Ordinance, and (iii) the City is in compliance with its National Pollutant Discharge Elimination System permits, except for non-compliance, if any, for which the additional parity bonds are issued, including refunding bonds issued prior to, but part of the overall plan to eliminate such non-compliance.

Additional Covenants of the City. For the purpose of further safeguarding the interests of the owners of the 2008 Bonds herein authorized, it is specifically provided as follows:

The City shall at all times maintain its Sewage Works in good condition and operate the same in an efficient manner and at a reasonable cost.

So long as any of the 2008 Bonds herein authorized are outstanding, the City shall maintain insurance coverage (which must be acceptable to the Authority if the Authority owns the 2008 Bonds), including fidelity bonds, to protect the sewage works and its operations on the insurable parts of said Sewage Works of a kind and in an amount such as would normally be carried by private companies 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, provided, however, such insurance requirement may be satisfied, in part or in whole, through the City's self insurance program. If the Authority owns the 2008 Bonds, use of the City's self-insurance program to satisfy any of the insurance requirements set forth herein shall be subject to the

approval of the Authority. Insurance proceeds and condemnation awards shall be used to replace or repair the property, or, if not used for that purpose, shall be treated and applied as net revenues of the sewage works (provided such is consented to in writing by the Authority if the Authority owns the 2008 Bonds).

So long as any of the 2008 Bonds are outstanding, the City shall not mortgage, pledge or otherwise encumber such sewage works, or any part thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except replace equipment which may become worn out or obsolete, without the prior written consent of the Authority if the 2008 Bonds are owned by the Authority.

If the 2008 Bonds are owned by to the Authority, the City shall not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the Sewage Works, other than for normal operating expenditures, without the prior written consent of the Authority if such undertaking would involve, commit, or use the revenues of the Sewage Works.

**Except as hereinbefore provided in Section 16 hereof, so long as any of the bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said Sewage Works shall be authorized, executed or issued by the City except such as shall be made subordinate and junior in all respects to the bonds herein authorized, unless all of the bonds herein authorized are redeemed, retired or defeased pursuant to Section 15 hereof coincidentally with the delivery of such additional bonds or other obligations.**

**The City shall take all action or proceedings necessary and proper to require connection of all property where liquid and solid waste, sewage, night soil, or industrial waste is produced with available sanitary sewers. The City shall, insofar as possible, cause all such sanitary sewers to be connected with said Sewage Works.**

(i) The provisions of this Ordinance shall constitute a contract by and between the City and the owners of the sewage works revenue bonds herein authorized, and after the issuance of said bonds, this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the owners of

said bonds, nor shall the Common Council adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as any of said bonds or the interest thereon remains unpaid.

**The provisions of this Ordinance shall be construed to create a trust in the proceeds of the sale of the bonds herein authorized for the uses and purposes herein set forth, and the owners of the bonds shall retain a lien on such respective proceeds until the same are applied in accordance with the provisions of this Ordinance and of the Act. The provisions of this Ordinance shall also be construed to create a trust in the portion of the net revenues herein directed to be set apart and paid into the Sewage Works Sinking Fund for the uses and purposes of said fund as in this Ordinance set forth. The owner of said bonds shall have all of the rights, remedies and privileges set forth in the provisions of the Act, including the right to have a receiver appointed to administer said Sewage Works in the event of default in the payment or the principal of or interest on any of the bonds herein authorized or in the event of default in respect to any of the provisions of this Ordinance or the Act. The Common Council reserves the right,**

however, to amend this Ordinance from time to time to preserve the Tax Exemption described in Section 19 hereof without the approval of any owner of the bonds so long as the Common Council certifies that such amendment does not violate subsection (i) of Section 17; provided, however, that if the 2008 Bonds are owned by the Authority, the City shall obtain the prior written consent of the Authority.

Permitted Actions Relating to Preservation of Exclusion of Interest from Federal Gross Income.

The Controller is hereby authorized to invest moneys pursuant to the provisions of this Ordinance at a restricted yield (subject to applicable requirements of federal law to insure that any such investment is acquired for fair market value) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the 2008 Bonds, or the tax exempt status of interest on the 2008 Bonds, under federal law.

The Controller shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts created or referenced herein. In order to comply with the

provisions of this Ordinance, the Controller is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion or exemption.

Reserved.

Reserved.

Supplemental Ordinances. Subject to the terms and provisions contained in this Section, and not otherwise, the owners of not less than sixty-six and two-thirds percent (66-2/3%) in aggregate principal amount of the 2008 Bonds issued pursuant to this Ordinance and then outstanding shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this Ordinance, or in any supplemental ordinance; provided, however, that if the 2008 Bonds are owned by the Authority, the City shall obtain the prior written consent of the Authority; and provided, further, that nothing herein contained shall permit or be construed as permitting:

An extension of the maturity of the principal of or interest on any 2008 Bond issued pursuant to this Ordinance; or

**A reduction in the principal amount of any bond or the rate of interest thereon; or**

**The creation of a lien upon or a pledge of the net revenues of the sewage works ranking prior to the pledge thereof created by this Ordinance; or**

**A preference or priority of any 2008 Bond or 2008 Bonds issued pursuant to this Ordinance over any other 2008 Bond or 2008 Bonds issued pursuant to the provisions of this Ordinance; or**

**A reduction in the aggregate principal amount of the 2008 Bonds required for consent to such supplemental ordinance.**

The owners of not less than sixty-six and two-thirds percent (66-2/3%) in aggregate principal amount of the 2008 Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Controller of the City. No owner of any 2008 Bond issued pursuant to this Ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the City or its officers from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this Ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and

obligations under this Ordinance of the City and all owners of 2008 Bonds issued pursuant to the provisions of this Ordinance then outstanding, shall thereafter be determined, exercised and enforced in accordance with this Ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this Ordinance, the rights and obligations of the City and of the owners of the 2008 Bonds authorized by this Ordinance, and the terms and provisions of the bonds and this Ordinance, or any supplemental ordinance, may be modified or altered in any respect with the consent of the City and the consent of the owners of all the 2008 Bonds issued pursuant to this Ordinance then outstanding.

Notwithstanding anything in this Section 21 of this Ordinance, as to any series of 2008 Bonds owned by the Authority pursuant to Section 8 of this Ordinance, no supplemental ordinance shall be adopted unless consented to in writing by the Authority.

**Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed.**

**Rates and Charges. The estimate of rates and charges which will be needed and charged to the general classes of users of property to be served by the Sewage Works in order to provide sufficient moneys to make payments of principal of and interest on the 2008 Bonds, along with the other payments identified in this Ordinance, is set forth in Ordinance No. G-09-01 adopted June 12, 2001.**

**Payments on Holidays. 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 city in which the Registrar and 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. Notwithstanding the foregoing, with respect to any series of 2008 Bonds sold to the Authority pursuant to Section 8 of this Ordinance, if the date for making any payment is a day when financial institutions are not open for business, such payment shall be made on the business day immediately preceding such payment date.

Captions. The captions in this Ordinance are inserted only as a matter of convenience and reference, and such captions are not intended and shall not be construed to define, limit, establish, interpret or describe the scope, intent or effect of any provision of this Ordinance.

Effectiveness. This Ordinance shall be in full force and effect from and upon compliance with the procedures required by law.

PASSED AND ADOPTED by the Common Council of Fort Wayne, Indiana, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Carol Taylor, City Attorney

**EXHIBIT A**  
**FORM OF BOND**

**EXHIBIT B**

**STATE OF INDIANA  
WASTEWATER REVOLVING LOAN PROGRAM**

FINANCIAL ASSISTANCE AGREEMENT

**BILL NO. S-08-12-09**

SPECIAL ORDINANCE NO. S-\_\_\_\_\_

AN ORDINANCE approving CONSTRUCTION CONTRACT #2095-2008, KIRKWOOD PARK PARTIAL SEWER SEPARATION between GEIGER EXCAVATING and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL  
OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That the CONSTRUCTION CONTRACT #2095-2008, KIRKWOOD PARK PARTIAL SEWER SEPARATION by and between GEIGER EXCAVATING and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

All labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for Partial sewer separation project in the Kirkwood Park neighborhood, including the installation of sanitary sewer, storm sewer and concrete streets:

involving a total cost of SIX HUNDRED SEVENTY THOUSAND, FIVE HUNDRED SEVENTY-ONE AND NO/100 DOLLARS - (\$670,571.00). A copy said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Carol T. Taylor, City Attorney

**BILL NO. S-08-12-10**

SPECIAL ORDINANCE NO. S-\_\_\_\_\_

AN ORDINANCE approving INTERLOCAL AGREEMENT - SPRING STREET BRIDGE OVER NORFOLK SOUTHERN RAILROAD AND THE INTERSECTION OF SPRING STREET AND LEESBURG ROAD between ALLEN COUNTY BOARD OF COMMISSIONERS and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That the INTERLOCAL AGREEMENT - SPRING STREET BRIDGE OVER NORFOLK SOUTHERN RAILROAD AND THE INTERSECTION OF SPRING STREET AND LEESBURG ROAD by and between ALLEN COUNTY BOARD OF COMMISSIONERS and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

Spring Street Bridge over Norfolk Southern Railroad and the Intersection of Spring Street and Leesburg Road:

involving a total cost of ONE HUNDRED SIXTY-SEVEN THOUSAND, THIRTY-EIGHT AND NO/100 DOLLARS - (\$167,038.00) – (estimated total cost is \$2,926,334.00. Federal participations is 80%.) A copy said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

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Carol T. Taylor, City Attorney

**BILL NO. S-08-12-13**

**SPECIAL ORDINANCE NO. S-\_\_\_\_\_**

**AN ORDINANCE** approving the awarding of ITB #2929 - PURCHASE AND DELIVERY OF LIQUID SODIUM HYPOCHLORITE by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and BRENNTAG for the WATER POLLUTION CONTROL PLANT.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA;**

**SECTION 1.** That ITB #2929 - PURCHASE AND DELIVERY OF LIQUID SODIUM HYPOCHLORITE between the City of Fort Wayne, by and through its Department of Purchasing and BRENNTAG for WATER POLLUTION CONTROL PLANT, respectfully for:

purchase and delivery of Liquid sodium Hypochloride for the Water Pollution Control Plant for 2009

involving a total cost of ONE HUNDRED EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS - (\$185,000.00) all as more particularly set forth in said ITB #2929 - PURCHASE AND DELIVERY OF LIQUID SODIUM HYPOCHLORITE which is on file in the Office of the Department of Purchasing, and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved.

**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

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Carol T. Taylor, City Attorney

**BILL NO. S-08-12-14**

**SPECIAL ORDINANCE NO. S-\_\_\_\_\_**

**AN ORDINANCE** approving the awarding of ITB #2940 - PURCHASE AND DELIVERY OF LIQUID FERRIC CHLORIDE by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and KEMIRA for the WATER POLLUTION CONTROL PLANT.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA;**

**SECTION 1.** That ITB #2940 - PURCHASE AND DELIVERY OF LIQUID FERRIC CHLORIDE between the City of Fort Wayne, by and through its Department of Purchasing and KEMIRA for WATER POLLUTION CONTROL PLANT, respectfully for:

purchase and delivery of Liquid Ferric Chloride for the Water Pollution Control Plant for 2009

involving a total cost of TWO HUNDRED FIVE THOUSAND AND NO/100 DOLLARS - (\$205,000.00) all as more particularly set forth in said ITB #2940 - PURCHASE AND DELIVERY OF LIQUID FERRIC CHLORIDE which is on file in the Office of the Department of Purchasing, and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved.

**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

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Carol T. Taylor, City Attorney



