

ORDINANCE 09-06

An Ordinance of the City of Westfield, Indiana authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of acquiring waterworks assets and of certain additions, extensions and improvements to the municipal waterworks of the City, providing for the safeguarding of the interests of the owners of said bonds, and repealing ordinances inconsistent herewith

WHEREAS, the City of Westfield, Indiana (the “City”) now owns and operates a municipal waterworks in accordance with the provisions of Title 8, Article 1.5 of the Indiana Code, and acts amendatory thereof and supplemental thereto (the “Act”), furnishing the public water supply to the City and its inhabitants; and

WHEREAS, pursuant to Ordinance No. 98-04, adopted on May 11, 1998 (the “1998 Ordinance”), the City has heretofore issued waterworks revenue bonds under date of July 1, 1998 (the “1998 Bonds”), payable from the revenues of the waterworks, outstanding in the aggregate principal amount of One Million Five Hundred Forty-Five Thousand Dollars (\$1,545,000), maturing annually on July 15, in the years 2009 to 2018 inclusive and pursuant to Ordinance 2002-10, as amended and restated, adopted on May 13, 2002 (the “2002 Ordinance”) the City has heretofore issued waterworks revenue bonds under date of May 22, 2002 (the “2002 Bonds”) payable from the revenues of the waterworks, outstanding in the aggregate principal amount of Seven Million Five Hundred Seventy Thousand Dollars (\$7,570,000) maturing annually on July 15 in the years 2009 through 2023; and

WHEREAS, Section 15 of the 1998 Ordinance and Section 14 of the 2002 Ordinance, authorizes the issuance of additional revenue bonds ranking on a parity with the 1998 Bonds and the 2002 Bonds for the purpose of financing the cost of future additions, extensions, and improvements to the waterworks, so long as certain conditions are met; and

WHEREAS, O.W. Krohn & Associates (the “City’s Financial Advisor”), certified public accountants, has been employed by the City, has analyzed the records and finances of the waterworks, and has submitted preliminary evidence and findings demonstrating compliance with the conditions set forth in the 1998 Ordinance and the 2002 Ordinance for the issuance of additional revenue bonds payable out of the revenues of the sewage works, and ranking on a parity with the 1998 Bonds and the 2002 Bonds; and

WHEREAS, the Common Council of the City now finds that certain additions and improvements to the waterworks are necessary and in the best interest of its residents; and

WHEREAS, the City has determined to enter into that certain Option Agreement (the “Option Agreement”) by and between Horseshoe Properties LLP, an Indiana limited liability partnership, as seller, and the City, as purchaser, for the purchase of approximately 87.75 acres of land, including mineral and water rights, located at the southeast corner of the intersection of River Avenue and East 160th Street in the City to be utilized by the City for additional well fields for the furnishing the public water supply to the City and its inhabitants (the “Acquisition”); and

WHEREAS, the City has determined that the cost of the Project, together with related financing costs and expenses will not exceed \$1,200,000; and

WHEREAS, all conditions precedent to the adoption of an ordinance authorizing the issuance of the Bonds (as hereinafter defined) have been complied with in accordance with the provisions of the Act; now, therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WESTFIELD, INDIANA THAT:

Section 1. Issuance of Bonds and BANs.

(a) The City, being the owner of and engaged in operating a municipal waterworks furnishing the public water supply to the City and its inhabitants, hereby determines to proceed with the Acquisition, the cost of which shall not exceed One Million Two Hundred Thousand Dollars (\$1,200,000), without further authorization from the Common Council, and the financing thereof by the issuance of revenue bonds pursuant to and in the manner prescribed by the Act, which revenue bonds shall be payable solely out of the Net Revenues of the waterworks (defined as gross revenues of the waterworks after deduction only for the payment of the reasonable expenses of operation, repair and maintenance), including the Acquisition. Except for purposes of Section 14, gross revenues of the waterworks shall include water availability fees and tap fees under this Ordinance.

(b) That the Acquisition shall proceed in accordance with the terms and conditions of the Option Agreement, as it may be amended from time to time, which Option Agreement is hereby approved and is by reference made a part of this Ordinance as fully as if the same were attached hereto and incorporated herein.

(c) The City shall issue its bonds, designated "City of Westfield, Indiana, Waterworks Revenue Bonds of 2009" (the "Bonds") in the principal amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000) for the purpose of procuring funds to apply on the costs of the Acquisition and related financing and issuance costs and refunding the BANs, if issued. The Bonds shall be payable from and constitute a first charge against the Net Revenues of the waterworks of the City, including the Waterworks heretofore constructed and all additions and improvements thereto and replacements thereof presently or subsequently constructed or acquired.

The Bonds shall be sold at a price not less than the par value thereof, shall be issued in the denomination of Five Thousand Dollars (\$5,000) each or integral multiples thereof, shall be numbered consecutively from 1 upward, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed eight percent (8%). Interest on the Bonds shall be payable semiannually on each January 15 and July 15 beginning July 15, 2009. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months. The Bonds shall mature at such times and in such amounts over a period ending no later than three (3) years after their date of delivery as determined by the Mayor, acting with advice of the City's Financial Advisor.

All or a portion of the Bonds may be issued as one or more term bonds, upon election of the successful bidder. Such term bonds shall have a stated maturity or maturities on July 15 in the years as determined by the successful bidder but no later than the final serial maturity of the Bonds as established in accordance with the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on dates which correspond to the principal payment dates hereinafter set in accordance with the above paragraph.

If any Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the City, any Bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each Bond maturing as a term bond so delivered or canceled shall be credited by the Paying Agent at 100% of the principal amount thereof against the mandatory sinking fund

obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such Bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date.

The Bonds are **not** redeemable at the option of the City prior to maturity.

(d) Issuance of BANs; Terms of BANs. The City shall issue, if necessary, Bond Anticipation Notes (“BANs”) for the purpose of procuring interim financing to apply to the cost of the Acquisition. The Issuer shall issue its BANs in one or more series in an aggregate amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000) to be designated “Waterworks Bond Anticipation Notes.” Said BANs shall be numbered consecutively from 1 upward, shall be sold at a price not less than their par value, shall be in multiples of \$1, as set forth in the purchase agreement for said BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed six percent (6%) per annum (the exact rate or rates to be determined through negotiation with the purchaser of the BANs) payable upon maturity. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months. The BANs will mature not later than one (1) year after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed six percent (6%) per annum (the exact rate or rates to be negotiated with the purchaser of the BANs). The term of the BANs and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. Effective 180 days after their date of delivery, the BANs are prepayable by the City, in whole or in part, at any time upon seven (7) days’ notice to the owner of the BANs without any premium. The BANs shall be registered in the name of the purchasers thereof.

The BANs shall be issued pursuant to IC 5-1-14-5 if sold to a financial institution. The City shall pledge to the payment of the principal of and interest on the BANs from the issuance of waterworks revenue bonds pursuant to and in the manner prescribed by the Act.

Section 2. Registrar and Paying Agent; Book-Entry-Only Provisions. The Clerk-Treasurer is hereby authorized to serve as Registrar and Paying Agent or to contract with a qualified institution to serve as Registrar and Paying Agent for the Bonds (“Registrar” or “Paying Agent”). Said Registrar is hereby charged with the responsibility of authenticating the Bonds. The Clerk-Treasurer is hereby authorized to enter into such agreements or understandings with the Registrar on the date of issuance of the Bonds, or at any later date until all the Bonds mature or are redeemed, as will enable the institution to perform the services required of a registrar and paying agent. The Clerk-Treasurer is further authorized to pay such fees as the Registrar may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Bond and Interest Account, as hereinafter defined in Section 10, to pay the principal of and interest on the Bonds and fiscal agency charges.

The principal of the Bonds shall be payable at the principal office of the Paying Agent. All payments of interest on the Bonds shall be paid by check mailed one business day prior to the interest payment date to the registered owner thereof, as of the first day of the month containing such interest payment date, at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by

1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the Bonds shall be made in any lawful money of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debt.

Each Bond shall be transferable or exchangeable only upon the books of the City kept for that purpose at the principal office of the Registrar by the registered owner thereof in person, or by its attorney duly authorized in writing, upon surrender of such Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in an authorized 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. The costs of such transfer or exchange shall be borne by the City except for any tax or governmental charge required to be paid with respect to the transfer or exchange, which taxes or governmental charges are payable by the person requesting such transfer or exchange. The City and the Registrar and Paying Agent for the Bonds may treat and consider the person in whose name such Bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

Interest on such Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the Bonds unless the Bonds are authenticated after the first day of the month containing an interest payment date and on or before such interest payment date in which case they shall bear interest from such interest

payment date, or unless the Bonds are authenticated on or before July 1, 2009, in which case they shall bear interest from the original date of the Bonds until the principal shall be fully paid.

The City has determined that it may be beneficial to the City to have the Bonds held by a central depository system pursuant to an agreement between the City and The Depository Trust Company, New York, New York (“Depository Trust Company”) and have transfers of the Bonds effected by book-entry on the books of the central depository system (“Book Entry System”). The Bonds may be initially issued in the form of a separate single authenticated fully registered bond for the aggregate principal amount of each separate maturity of the Bonds. In such case, upon initial issuance, the ownership of such Bonds shall be registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company.

With respect to the Bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, the City and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner (“Beneficial Owner”)) of the Bonds with respect to (i) the accuracy of the records of the Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any notice with respect to the Bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the Bonds except as otherwise provided herein.

If the City decides to register the Bonds with the Depository Trust Company, no person other than the Depository Trust Company shall receive an authenticated bond evidencing an

obligation of the City to make payments of the principal of and premium, if any, and interest on the Bonds pursuant to this Ordinance. The City and the Registrar and Paying Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Bonds; (iii) registering transfers with respect to such Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the order of the Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the City's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the City of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this Ordinance shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any Bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the City to the Depository Trust Company.

Upon receipt by the City of written notice from the Depository Trust Company to the effect that the Depository Trust Company is unable or unwilling to discharge its responsibilities

and no substitute depository willing to undertake the functions of the Depository Trust Company hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the Bonds shall no longer be restricted to being registered in the register of the City kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, but may be registered in whatever name or names the bondholders transferring or exchanging the Bonds shall designate, in accordance with the provisions of this Ordinance.

If the City determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered Bonds, the City may notify the Depository Trust Company and the Registrar, whereupon the Depository Trust Company will notify the Beneficial Owners of the availability through the Depository Trust Company of certificates for the Bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the Bonds as requested by the Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever the Depository Trust Company requests the City and the Registrar to do so, the Registrar and the City will cooperate with the Depository Trust Company by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered Bonds of any Beneficial Owner's Depository Trust Company account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the Bonds.

If the Bonds shall no longer be restricted to being registered in the name of a Depository Trust Company, the Registrar shall cause said Bonds to be printed in blank in such number as the Registrar shall determine to be necessary or customary; provided, however, that the Registrar

shall not be required to have such Bonds printed until it shall have received from the City indemnification for all costs and expenses associated with such printing.

In connection with any notice or other communication to be provided to bondholders by the City or the Registrar with respect to any consent or other action to be taken by bondholders, the City or the Registrar, as the case may be, shall establish a record date for such consent or other action and give the Depository Trust Company notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

So long as said Bonds are registered in the name of the Depository Trust Company or CEDE & CO. or any substitute nominee, the City and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the Beneficial Owners of the Bonds or from the Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the Bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and the Depository Trust Company, to the same extent as if such consent, advice, direction, demand or vote were made by the bondholders for purposes of this Ordinance and the City and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the bondholders. Along with any such certificate or representation, the Registrar may request the Depository Trust Company to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the Bonds, together with the dollar amount of each Beneficial Owner's interest in the Bonds and the current addresses of such Beneficial Owners.

Section 3. Execution. Each of the Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor of the City, attested by the manual or facsimile

signature of its Clerk-Treasurer and the seal of the City shall be affixed, imprinted or impressed to or on each of the Bonds manually, by facsimile or any other means; and those officials, by the execution of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures the facsimile signatures appearing on the Bonds. In case any officer whose signature or facsimile signature appears on the Bonds shall cease to be such officer before the delivery of the Bonds, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The Bonds shall also be authenticated by the manual signature of an authorized representative of the Registrar and no Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

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

Section 4. Form of Bond. The form and tenor of said Bonds shall be substantially as follows, all blanks to be filled in properly prior to delivery thereof:

UNITED STATES OF AMERICA

NO. 09R-

STATE OF INDIANA

COUNTY OF HAMILTON

CITY OF WESTFIELD, INDIANA
 WATERWORKS REVENUE
 BONDS OF 2009

<u>Original Date</u>	<u>Maturity Date</u>	<u>Authentication Date</u>	<u>Interest Rate</u>	[CUSIP]
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REGISTERED OWNER:

PRINCIPAL SUM:

The City of Westfield, Indiana (“City”), in Hamilton County, State of Indiana, for value received, hereby promises to pay to the Registered Owner named above (“Registered Owner”) or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above (“Principal Sum”) on the Maturity Date set forth above (unless this Bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest hereon until the Principal Sum is paid at the Interest Rate per annum specified above, from the interest payment date to which interest has been paid next preceding the Authentication date of this bond unless this Bond is authenticated after the first day of the month containing an interest payment date and on or before such interest payment date in which case it shall bear interest from such interest payment date, or unless this Bond is authenticated on or before July 1, 2009, in which case it shall bear interest from the Original date, which interest is payable semiannually on July 15 and January 15, beginning July 15, 2009.

The principal of this Bond is payable at the principal office of _____ (“Registrar” or “Paying Agent”), in the City of _____, Indiana. All payments of interest on this Bond shall be paid by check mailed one business day prior to the interest payment date to the registered owner hereof, as of the first day of the month containing an interest payment date (the “Record Date”), at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the registered owner; provided. All payments on this Bond shall be made in any lawful money of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

The City has designated the Bonds as qualified tax-exempt obligations to qualify the Bonds for the \$30,000,000 exception from the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986 relating to the disallowance of the deduction for interest expense allocable to tax-exempt obligations.

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

The terms and provisions of this Bond are continued on the reverse side hereof and such terms and provisions shall for all purposes have the same effect as though fully set forth at this place.

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

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

IN WITNESS WHEREOF, the City of Westfield, in Hamilton County, Indiana, has caused this Bond to be executed in its corporate name by the manual or facsimile signature of the President of its Common Council, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk-Treasurer.

CITY OF WESTFIELD, INDIANA

By _____
Mayor

[SEAL]

Attest:

Clerk-Treasurer

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Ordinance.

as Registrar

By _____
Authorized Representative

(To be printed on Reverse Side)

This Bond is one of an authorized issue of Bonds of the City, of like date, tenor and effect, except as to numbering, interest rates and dates of maturity in the total amount of One Million Two Hundred Thousand Dollars (\$1,200,000), numbered consecutively from 09R-1 up; issued for the purpose of providing funds to pay the cost of certain additions and improvements to the municipally owned waterworks system of the City[, refunding notes issued in anticipation of bonds] and to pay issuance expenses. This Bond is issued pursuant to an ordinance adopted by the Common Council of said City on the ____ day of _____, 2009, entitled "An Ordinance of the City of Westfield, Indiana authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of acquiring waterworks assets and of certain additions, extensions and improvements to the municipal waterworks of said City, providing for the safeguarding of the interests of the owners of said Bonds, other matters connected therewith, and repealing ordinances inconsistent herewith" (the "Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 8-1.5 (the "Act"), the proceeds of which Bonds are to be applied solely, together with other funds described in the Ordinance, to the construction of said additions, extensions and improvements, and the incidental expenses incurred in connection therewith.

Pursuant to the provisions of said Act and said Ordinance, the principal of and interest on this Bond and all other bonds authorized by the Ordinance together with certain Waterworks Revenue Bonds of 1998 (the "1998 Bonds") outstanding on the Original Date hereof in the aggregate principal amount of One Million Five Hundred Forty-Five Thousand Dollars (\$1,545,000), maturing annually on July 15 of the years 2009 through 2018, inclusive and certain Waterworks Revenue Bonds of 2002 (the "2002 Bonds") outstanding on the Original Date hereof in the principal amount of Seven Million Five Hundred Seventy Thousand Dollars (\$7,570,000), maturing annually on July 15 of the years 2009 through 2023 inclusive and ranking on a parity herewith, and any bonds hereafter issued on a parity herewith, are payable solely from the Waterworks Sinking Fund continued by the Ordinance to be provided from the Net Revenues (hereinafter defined as gross revenues of the waterworks after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the waterworks, including the works herein acquired and constructed and all additions and improvements thereto and replacements thereof subsequently constructed or acquired. Under the Ordinance, gross revenues include tap and water availability fees.

The City of Westfield irrevocably pledges the entire Net Revenues of said waterworks to the prompt payment of the principal of and interest on the Bonds issued on account of the construction of additions and extensions to said waterworks, and any bonds ranking on a parity therewith, to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by said works as are sufficient in each year for the payment of the proper and reasonable expenses of operation and maintenance of said works, and for the payment of the sums required to be paid into its Waterworks Sinking Fund under the provisions of said Ordinance and the Act. In the event the City or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the owner of this Bond shall have all of the rights and remedies provided for under Indiana law.

The City further covenants that it will set aside and pay into its Waterworks Sinking Fund, a sufficient amount of the Net Revenues of said works for payment of (a) the interest on all bonds which by their terms are payable from the revenues of said waterworks, as such interest shall fall due, (b) the necessary fiscal agency charges for paying bonds and interest, (c) the principal of all bonds which by their terms are payable from the revenues of said waterworks, as such principal shall fall due, and (d) an additional amount as a margin of safety to create and maintain the reserve required by the 1998 Ordinance and the 2002 Ordinance, **provided, however, this Bond is not entitled to the benefits of the reserve.** Such required payments shall constitute a first charge upon the Net Revenues of said waterworks.

This Bond is transferable or exchangeable only upon the books of the City kept for that purpose at the office of the Registrar, by the registered owner hereof in person, or by its attorney duly authorized in writing, upon surrender of this Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or its attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the registered owner, as the case may be, in exchange

therefor. This Bond may be transferred or exchanged without cost to the registered owner except for any tax or governmental charge required within respect to the transfer. The City, the Registrar and any paying agent for this Bond may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

[The Bonds shall be initially issued in a Book Entry System (as defined in the Ordinance). The provisions of this Bond and of the Ordinance are subject in all respects to the provisions of the Letter of Representations between the City and The Depository Trust Company, or any substitute agreement, effecting such Book Entry System.]

If this Bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with its depository bank an amount sufficient to pay such Bond or the redemption price, as the case may be, and thereafter the registered owner shall look only to the funds so deposited in trust with said bank for payment, and the City shall have no further obligation or liability in respect thereto.

THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. This Bond is subject to defeasance prior to redemption or payments as provided in the Ordinance. The Ordinance may be amended without the consent of the owners of the Bonds as provided in the Ordinance if the Common Council of the City determines, in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the Bonds.

The Bonds maturing in any one year are issuable only in fully registered form in the denomination of \$5,000 or any integral multiple thereof not exceeding the aggregate principal amount of the Bonds maturing in such year.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to transfer the within Bond in the books kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: Signature(s) must be guaranteed by a broker-dealer or a commercial bank or trust company.

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

Section 5. Authorization for Preparing Bonds. The Clerk-Treasurer is hereby authorized and directed to have the Bonds prepared, and the Mayor and Clerk-Treasurer are hereby authorized and directed to execute and attest the Bonds in the form and manner herein provided. The Clerk-Treasurer is hereby authorized and directed to deliver the Bonds to the purchaser thereof after sale made in accordance with the provisions of this Ordinance, provided that at the time of said delivery the Clerk-Treasurer shall collect the full amount which the purchaser has agreed to pay therefor. The Bonds herein authorized, when fully paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City, payable out of the Net Revenues of the waterworks to be set aside into the Waterworks Sinking Fund, as herein provided. The proceeds derived from the sale of said Bonds shall be and are hereby set aside for application on the cost of the Acquisition, and the expenses necessarily incurred in connection with the Bonds. The proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this Ordinance.

Section 6. Sale of Bonds; Award of Bonds. Prior to the sale of said bonds, the Clerk-Treasurer shall cause to be published a notice of such sale in the Noblesville Times and the Noblesville Ledger, newspapers published in Hamilton County, Indiana, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, all in accordance with IC 5-1-11 and IC 5-3-1. The notice shall also be posted at the City Hall in

accordance with IC 5-3-1. A notice or summary notice of sale may also be published in the Court and Commercial Record or The Indianapolis Star in Indianapolis, Indiana. The bond sale notice shall state the time and place of sale, the character and amount of the Bonds, the maximum rates of interest hereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Clerk-Treasurer and the advisors employed by the City shall deem advisable, and any summary notice may contain any information deemed so advisable. Said notice shall provide, among other things, that bidders for said Bonds will be required to name the rate or rates of interest which the Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-eighth (1/8) or one-twentieth (1/20) of one percent (1%). The rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bids or bids for less than the par value of the Bonds will be considered. The opinion of Krieg DeVault LLP, bond counsel, approving the legality of said Bonds will be furnished to the purchaser at the expense of the City.

The Bonds shall be awarded by the Clerk-Treasurer to the best bidder who has submitted its bid in accordance with the terms of this Ordinance and the notice of sale. The best bidder will be the one who offers the lowest net interest cost to the City to be determined by computing the total interest on all of the Bonds to their maturities and deducting therefrom the premium bid, if any. The right to reject any and all bids is hereby reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which provides a higher net interest cost to the City than the best bid received at the time of the advertised sale will be considered.

Distribution of an Official Statement (preliminary and final) prepared by the Financial Advisor, on behalf of the City, is hereby approved and the Mayor or the Clerk-Treasurer are authorized and directed to execute the Official Statement on behalf of the City in a form consistent with this Ordinance. The Mayor or the Clerk-Treasurer are hereby authorized to designate the preliminary Official Statement as “nearly final” for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

Section 7. Financial Records and Accounts. The City shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of said waterworks and all disbursements made therefrom and all transactions relating to said waterworks. Any owner of at least \$1,000,000 of the Bonds shall have the right, upon request, at all reasonable times to inspect said waterworks system and the records, accounts and data of the City relating thereto.

Section 8. Acquisition and Construction Account. Any premium received at the time of the delivery of the Bonds shall be deposited in the Waterworks Sinking Fund hereinafter defined. The remaining proceeds from the sale of the Bonds shall upon receipt be deposited in a bank or banks which are legally designated and qualified depositories for the funds of the City, in a special account or accounts to be designated as “City of Westfield, Waterworks Acquisition and Construction Account.” The funds in each of such special accounts shall be deposited, secured, and held, or invested in accordance with the laws of the State of Indiana relating to the depositing, securing and holding, or investment of public funds. The funds in such special account or accounts and any income derived from the investment hereof shall be expended only for the purpose of paying the cost of the Acquisition, including issuance and financing costs, and

the incidental expenses incurred in connection therewith. Any balance or balances remaining unexpended in such special account or accounts after the completion of the Acquisition, which are not required to meet unpaid obligations incurred in connection with the Project, shall either (1) be deposited in the Waterworks Sinking Fund and used solely for the purposes of said Fund or (2) be used for the same purpose or type of project for which the Bonds were issued, all in accordance with IC 5-1-13, as amended.

Section 9. Revenue Fund and Operation and Maintenance Fund. All revenues derived from the operation of the waterworks and from the collection of water rates and charges shall be deposited in the Waterworks Revenue Fund (“Revenue Fund”). Said Revenue Fund shall be segregated and kept separate and apart from all other funds and bank accounts of the City. Out of the Revenue Fund the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the requirements of the Waterworks Sinking Fund shall be met and the costs of improvements, replacements, additions and extensions to the works shall be paid.

There is hereby continued the existing “Operation and Maintenance Fund” (“O & M Fund”). On the last day of each month, a sufficient amount of moneys shall be transferred from the Revenue Fund to the O & M Fund to pay the expenses of operation, repair and maintenance of the works for the next succeeding two (2) calendar months.

The moneys credited to this Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the waterworks on a day-to-day basis, but none of the moneys in said Fund shall be used for depreciation, replacements, improvements, extensions or additions, Any balance in said Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding money may be transferred to the

Waterworks Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds.

Section 10. Waterworks Sinking Fund. There is hereby continued the existing special fund designated “Waterworks Sinking Fund,” (“Sinking Fund”) for the payment of the principal of and interest on all outstanding waterworks revenue bonds, and the payment of any fiscal agency charges in connection with the payment of bonds. There shall be set aside and deposited in said Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the Net Revenues of said waterworks to meet the requirements of the Bond and Interest Account and of the Debt Service Reserve Account hereby continued in said Sinking Fund. Such payments shall continue until the balance in the Bond and Interest Account, plus the balance in the Debt Service Reserve Account hereinafter described, equals the amount needed to redeem all of the then outstanding bonds.

(a) Bond and Interest Account. There is hereby continued, within said Sinking Fund, the existing Bond and Interest Account and there shall be set aside and paid into said Account monthly, on the first day of each month as available, an amount equal to one-tenth (1/10) of the amount required for principal and one-fifth (1/5) of the amount required for interest payments during the next succeeding twelve (12) calendar months and six (6) calendar months, respectively, on all outstanding bonds payable from the Sinking Fund, until such time as said Bond and Interest Account shall contain an amount sufficient to pay the interest payable on all outstanding bonds during the next succeeding six (6) calendar months and principal payable on all outstanding bonds during the next succeeding twelve (12) calendar months.

There shall similarly be credited to the account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on the bonds as the same become payable.

The City shall, from the sums deposited in the Sinking Fund and the funds in and credited to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the principal and interest on the due dates thereof together with the amount of bank fiscal agency charges.

(b) Debt Service Reserve Account. There is hereby continued, within the Sinking Fund, the existing Debt Service Reserve Account (“Reserve Account”) for the sole benefit of the 1998 Bonds and the 2002 Bonds. **The Bonds are not entitled to the benefits of the Reserve Account.** The City shall continue to deposit, if necessary, into the Reserve Account either a sum of Net Revenues on the last day of each calendar month or funds of the waterworks now on hand until the balance in the Reserve Account is equal to but does not exceed the least of (i) the maximum annual principal and interest requirements of the 1998 Bonds and the 2002 Bonds, (ii) 125% of the average annual debt service on the 1998 Bonds and the 2002 Bonds, or (iii) ten percent (10%) of the proceeds of the 1998 Bonds and the 2002 Bonds plus a minor portion as defined in the Internal Revenue Code of 1986 (the “Reserve Requirement”).

The Reserve Account shall continue to constitute the margin for safety and a protection against default in the payment of principal of and interest on the 1998 Bonds and the 2002 Bonds, and the moneys in the Reserve Account shall be used only to pay current principal and interest on the 1998 Bonds and the 2002 Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiencies in credits to the Reserve Account shall be promptly made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. In the event moneys in the Reserve Account are transferred to the Bond and Interest Account to pay principal and interest on the 1998 Bonds and the 2002 Bonds, then such depletion of the balance in the Reserve Account shall be made up from the next

available Net Revenues after the credits into the Bond and Interest Account hereinbefore provided for. No moneys shall be held in the Reserve Account in excess of the Reserve Requirement. The Reserve Requirement may be satisfied in whole or in part, by a debt service reserve fund surety bond issued by a recognized issuer of such instruments.

Section 11. Waterworks Improvement Fund. There is hereby continued an existing special fund designated the Waterworks Improvement Fund (“Improvement Fund”). In the event all required payments into the Operation and Maintenance Fund and the Sinking Fund have been met to date, then any excess net Revenues may be transferred to the Improvement Fund for improvements, replacements, extensions and additions to the works. No such transfer to the Improvement Fund shall be made, however, which will interfere with the requirements of the Sinking Fund or the accumulation of the required reserve therein.

All or any portion of the funds accumulated and reserved in the Improvement Fund shall be transferred to the Sinking Fund, if necessary, to prevent a default in the payment of principal of or interest on the bonds payable from said Sinking Fund or to eliminate any deficiencies in creditors to or minimum balance in the Reserve Account for the 1998 Bonds and the 2002 Bonds. Moneys in the Improvement Fund also may be transferred to the O & M Fund to meet unforeseen contingencies in the operation, repair and maintenance of the waterworks.

Section 12. Investment of Funds. The Sinking Fund shall consist of at least one separate account of the City. The O & M Fund and the Improvement Fund may be maintained in one account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the City and apart from the Sinking Fund account or accounts. All moneys deposited in said accounts shall be deposited, held, secured and invested

as public funds in accordance with the public depository laws and investment laws of the State of Indiana as now in effect or as hereafter amended.

Section 13. Defeasance of the Bonds. If, when the Bonds issued hereunder or any portion thereof shall have become due and payable in accordance with their terms and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds or any portion 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 for such purpose, 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 Bonds issued hereunder or any designated portion thereof shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's waterworks.

Section 14. Rate Covenant. The City shall by ordinance establish, maintain and collect just and equitable rates and charges for facilities and services afforded and rendered by said waterworks, which shall, to the extent permitted by law, produce sufficient revenues at all times to pay all the legal and other necessary expenses incident to the operation of such waterworks, to include maintenance costs, operating charges, upkeep, repairs, depreciation, interest charges, to provide for payment of the sums to provide a sinking fund for the liquidation of bonds or other obligations, and to provide a debt service reserve for bonds or other obligations so designated for such benefit, including leases, to provide adequate funds to be used as working capital, as well as funds for making extensions, additions, and replacements, and also, for the payment of any taxes that may be assessed against such waterworks, it being the intent and purpose thereof that such charges shall produce an income sufficient to maintain such

waterworks property in a sound physical and financial condition to render adequate and efficient service. So long as any of the Bonds herein authorized are outstanding, none of the facilities or services afforded or rendered by said system shall be furnished without a reasonable and just charge being made therefor. The City shall pay like charges for any and all services rendered by said waterworks to the City, and all such payments shall be deemed to be revenues of the waterworks. 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 and said requirements of the Sinking Fund.

Section 15. Additional Bond Provisions. The City reserves the right to authorize and issue additional bonds, payable out of the Net Revenues of its waterworks ranking on a parity with the 1998 Bonds, the 2002 Bonds and the Bonds authorized by this Ordinance for the purpose of financing the cost of future additions, extensions and improvements to the waterworks, or to refund obligations, subject to the following conditions:

(a) The interest on and principal of all bonds or other obligations payable from the Net Revenues of the waterworks shall have been paid to date in accordance with the terms thereof and all credits required to be made to the Sinking Fund and the accounts thereof shall have been made to date.

(b) The amount of Net Revenues of the waterworks in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the 1998 Bonds, the 2002 Bonds and the Bonds authorized by this Ordinance shall not be less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the proposed additional parity bonds proposed to be issued; or, prior to the issuance of said parity bonds, the water rates and charges shall be increased sufficiently so

that said increased rates and charges applied to the previous fiscal year's operations would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued. For the purposes of this subsection, the records of the waterworks shall be analyzed and all showings shall be prepared by a certified public accountant engaged by the City for that purpose.

(c) The interest on the additional parity bonds shall be payable semiannually on January 15 and July 15 and the principal shall be payable annually on July 15 in the years in which principal and interest are payable.

Section 16. Further Covenants of the City; Maintenance, Insurance, Pledge Not To Encumber, Subordinate Indebtedness and Contract with Bondholders. For the purpose of further safeguarding the interests of the owners of the Bonds, it is hereby specifically provided as follows:

(a) All contracts let by the City in connection with the Project shall be let after due advertisement if required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to 100% of the amount of such contracts, to insure the completion of said contracts in accordance with their terms; and such contractors shall also be required to carry such employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The City shall at all times maintain its waterworks in good condition and operate the same in an efficient manner and at a reasonable cost.

(c) So long as any of the Bonds herein authorized are outstanding, the City shall maintain insurance on the insurable parts of said waterworks 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. Insurance proceeds shall be used in replacing the property destroyed or damaged or if not used for that purpose shall be treated and applied as Net Revenues of the works.

(d) So long as any of the Bonds herein authorized are outstanding, the City shall not mortgage, pledge or otherwise encumber such works or any part thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except equipment or property which may become worn out, obsolete or no longer suitable for use in the waterworks.

(e) Except as hereinbefore provided in Section 15, so long as the Bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said waterworks 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.

(f) The provisions of this Ordinance shall constitute a contract by and between the City and the owners of the 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 of the City adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as said Bonds or the interest thereon remain unpaid. Excluding the changes set forth in Section 18(a)-(g), the ordinance may be amended, however, without the consent of Bond owners, if the Common

Council of the City determines, in its sole discretion, that such amendment would not adversely affect the owners of the Bonds.

(g) 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 proceeds until the same are applied in accordance with the provisions of this Ordinance and of said governing 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 Sinking Fund for the uses and purposes of said fund as set forth in this Ordinance. The owners of said Bonds shall have all the rights, remedies and privileges under Indiana law in the event the City shall fail or refuse to fix and collect sufficient rates and charges for said purposes, or shall fail or reuse to operate and maintain said system and to apply properly the revenues derived from the operation thereof, or if there be a default in the payment of the interest on or principal of the Bonds.

Section 17. Tax Covenants. In order to preserve the exclusion of interest on the Bonds from gross income, under federal law and as an inducement to the purchasers of the Bonds, the City represents, covenants and agrees:

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

arrangement that differentiates that person's or entity's use of such property from the use by the public at large of such property.

(b) No portion of the payment of the principal of or interest on the Bonds is, under the terms of the Bonds, this Ordinance or any underlying arrangement, directly or indirectly, secured by an interest in property used or to be used for any private use or payments in respect of such property, or to be derived from payments (whether or not to the City) in respect of property or borrowed money used or to be used for a private business use.

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

(d) The City represents that:

(1) The Bonds are not private activity bonds as defined in Section 141 of the Code;

(2) The City hereby designates the Bonds as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; and

(3) The reasonably anticipated amount of qualified tax-exempt obligations (including 501(c)(3) obligations and tax-exempt leases but excluding other private activity bonds) which will be issued by the City and all entities subordinate to the City during 2009 does not exceed \$30,000,000.

(4) The City has not designated more than \$30,000,000 of qualified tax-exempt obligations during 2009.

Therefore, the Bonds qualify for the exception in the Code from the disallowance of 100% of the deduction by financial institutions of interest expense allocable to tax-exempt obligations.

(e) It will not take any action or fail to take any action with respect to the Bonds that would result in the loss of the exclusion from gross income for federal tax purposes of interest on the Bonds pursuant to Section 103 of the Code, nor will the City act in any other manner which would adversely affect such exclusion, and it will not make any investment or do any other act or thing during the period that the Bonds are outstanding which would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(f) These covenants are based solely on current law in effect and in existence on the date of delivery of such Bonds.

(g) It shall not be an event of default under this Ordinance if the interest on the Bonds is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of the issuance of the Bonds.

Section 18. Amendments with Consent of Bondholders. 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 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 Common Council of the City of such ordinance or ordinances supplemental hereto or amendatory hereof, 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 nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of, mandatory sinking fund redemption date, if any, or interest on any bond issued pursuant to this Ordinance; or

(b) A reduction in the principal amount of any bond or the redemption premium or the rate of interest thereon; or

(c) The creation of a lien upon or a pledge of the revenues of the waterworks ranking prior to the pledge thereof created by this Ordinance; or

(d) A preference or priority of any Bond or Bonds issued pursuant to this Ordinance over any other bond or bonds issued pursuant to the provisions of this Ordinance; or

(e) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance;

(f) A reduction in the Reserve Requirement; or

(g) Any amendment or modification to Section 14.

In the event that the owners of not less than sixty-six and two-thirds percent (66-2/3%) in aggregate principal amount of the 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 Clerk-Treasurer of the City, no owner of any 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 Common Council of the City 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 Bonds then outstanding, shall thereafter be determined, exercised and enforced in accordance with this Ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this Ordinance, the rights and obligations of the City and of the owners of the Bonds authorized by this Ordinance, and the terms and provisions of the Bonds and this Ordinance, or any supplemental or amendatory ordinance, may be modified or altered in any respect with the consent of the city and the consent of the owners of all the Bonds then outstanding.

Section 19. Compliance with Tax Covenants. Notwithstanding any other provisions of this Ordinance, the covenants and authorizations contained in this Ordinance (“Tax Sections”) which are designed to preserve the exclusion of interest on the Bonds from gross income under federal tax law (“Tax Exemption”) need not be complied with if the City receives an opinion of bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

Section 20. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 21. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Ordinance.

Section 22. Effective Date. This ordinance shall be in full force and effect from and after its passage.

ADOPTED AND PASSED THIS ____ DAY OF _____, 2009, BY THE
WESTFIELD COMMON COUNCIL, HAMILTON COUNTY, INDIANA.

WESTFIELD COMMON COUNCIL
Hamilton County, Indiana

WESTFIELD COMMON COUNCIL

Voting For

Voting Against

Abstain

John Dippel

John Dippel

John Dippel

Bob Horkay

Bob Horkay

Bob Horkay

Ken Kingshill

Ken Kingshill

Ken Kingshill

Bob Smith

Bob Smith

Bob Smith

Thomas Smith

Thomas Smith

Thomas Smith

Rob Stokes

Rob Stokes

Rob Stokes

Steven Hoover

Steven Hoover

Steven Hoover

ATTEST:

Clerk-Treasurer, Cindy Gossard

This ordinance prepared by:
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I hereby certify that ORDINANCE 09-06 was delivered to the Mayor of Westfield on the _____ day of _____, 2009, at _____ m.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE Ordinance 09-06
this _____ day of _____, 2009.

J. Andrew Cook, Mayor

I hereby VETO Ordinance 09-06
this _____ day of _____, 2009.

J. Andrew Cook, Mayor

This document prepared by
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