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**ORDINANCE NO. 23-\_\_\_\_**  
**OF THE**  
**CITY OF JACKSON, MISSOURI**

**PASSED APRIL 17, 2023**

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**AUTHORIZING**  
**\$3,500,000**  
**COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS**  
**SERIES 2023**  
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**AN ORDINANCE AUTHORIZING THE ISSUANCE OF  
COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 2023, OF THE CITY OF JACKSON,  
MISSOURI; PRESCRIBING THE FORM AND DETAILS OF THE  
BONDS AND THE COVENANTS AND AGREEMENTS TO  
PROVIDE FOR THE PAYMENT AND SECURITY THEREOF;  
AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS  
AND PRESCRIBING OTHER MATTERS RELATING THERETO.**

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**RECITALS**

**WHEREAS**, the City of Jackson, Missouri (the “City”), is a fourth-class city and political subdivision duly created, organized and existing under the laws of the State of Missouri, and pursuant to Chapter 250 of the Revised Statutes of Missouri, as amended (the “Act”), owns and operates a revenue producing combined waterworks and sewerage system serving the City and its inhabitants and others within its service area (the “System,” as hereinafter more fully defined);

**WHEREAS**, the City desires to make certain extensions and improvements to the System and is authorized under the provisions of the Act to issue and sell revenue bonds for the purpose of providing funds for such purpose, provided that the principal of and interest on such revenue bonds shall be payable out of the revenues derived from the operation of the System;

**WHEREAS**, a bond election was duly held in the City on August 4, 2015 on the following question:

**QUESTION**

**Shall the City of Jackson, Missouri, issue its combined waterworks and sewerage system revenue bonds in the amount of \$11,500,000.00 for the purpose of acquiring, constructing, extending, and improving the waterworks system of the City; the cost of operation and maintenance of said system and the principal of and interest on said revenue bonds to be payable solely from the revenues derived by the City from the operation of its combined waterworks and sewerage system, including all future extensions and improvements thereto?**

and it was found and determined that more than a majority of the qualified electors of the City voting on the question had voted in favor of the issuance of said revenue bonds for the purpose aforesaid, the vote on said question having been 677 votes for said question to 224 votes against said question;

**WHEREAS**, the City has heretofore issued \$8,000,000 of the bonds so authorized and now proposes to issue the remaining \$3,500,000 of the bonds (the “Bonds”) so authorized to provide funds for said purpose;

**WHEREAS**, plans and specifications for the Project (as hereinafter defined) and an estimate of the cost thereof have been prepared and made by the City’s engineers and the same are hereby accepted and approved and are on file in the office of the City Clerk;

**WHEREAS**, upon the issuance of the Bonds, the City will have outstanding, in addition to the Bonds, the following obligations payable from System revenues:

<u>Description of Bonds</u>	<u>Date</u>	<u>Original Amount Issued</u>	<u>Outstanding Amount</u>
Combined Waterworks and Sewerage System Revenue Bonds, Series 2016 (the “Series 2016 Bonds”)	April 12, 2016	\$4,000,000	\$2,710,000
Combined Waterworks and Sewerage System Revenue Bonds, Series 2019 (the “Series 2019 Bonds”)	February 5, 2019	4,000,000	3,210,000

**WHEREAS**, it is hereby found and determined that it is necessary and advisable and in the best interest of the City and of its inhabitants at this time to authorize the issuance and delivery of revenue bonds pursuant to the Act as herein provided to provide funds for such purposes;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF JACKSON, MISSOURI, AS FOLLOWS:**

## **ARTICLE I**

### **DEFINITIONS**

**Section 101. Definitions of Words and Terms.** In addition to words and terms defined elsewhere herein, the following capitalized words and terms as used in this Ordinance shall have the following meanings:

“**Act**” means Chapter 250 of the Revised Statutes of Missouri, as amended.

“**Bond Counsel**” means Gilmore & Bell, P.C., St. Louis, Missouri, or other attorneys or firm of attorneys with a nationally recognized standing in the field of municipal bond financing selected by the City.

“**Bond Payment Date**” means any date on which principal of or interest on any Bond is payable at the Maturity thereof or on any Interest Payment Date.

“**Bond Register**” means the books for the registration, transfer and exchange of Bonds kept at the office of the Paying Agent.

“**Bondowner**,” “**Owner**” or “**Registered Owner**” when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register.

**“Bonds”** means the City’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2023, in the original aggregate principal amount of \$3,500,000, authorized and issued pursuant to this Ordinance.

**“Business Day”** means a day, other than a Saturday, Sunday or holiday, on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

**“City”** means the City of Jackson, Missouri, and any successors or assigns.

**“Code”** means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the Treasury Department proposed or promulgated thereunder.

**“Consultant”** means an independent engineer or engineering firm having a favorable reputation for skill and experience in the construction, financing and operation of public utilities and the preparation of management studies and financial feasibility studies in connection therewith or a registered municipal advisor, selected by the City for the purpose of carrying out the duties imposed on the Consultant by this Ordinance.

**“Debt Service Account”** means the account by that name created by **Section 501**.

**“Debt Service Requirements”** means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and net interest or interest like payments (after taking into account any applicable Subsidy Payments) on all System Revenue Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State of Missouri and having full trust powers.

**“Defaulted Interest”** means interest on any Bond which is payable but not paid on any Interest Payment Date.

**“Defeasance Obligations”** means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are not subject to redemption prior to maturity or the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations serving as security for the obligations, plus any cash in the escrow fund, are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations serving as security for the obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) the obligations are rated in the same rating category or higher as United States Government Obligations by a nationally recognized rating service.

**“Determination of Taxability”** means and shall be deemed to have occurred on the first to occur of the following:

(a) on the date the City files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability has in fact occurred;

(b) on the date the City is advised in writing by the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon filings of the City or upon any review or audit of the City, an Event of Taxability has occurred; or

(c) on the date the City receives notice from the Bondowner or any former Bondowner that the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Bondowner or such former Bondowner the interest on the Bonds due to the occurrence of an Event of Taxability;

provided, however, no Determination of Taxability shall occur under subparagraph (b) or (c) unless the City has been afforded the opportunity, at its expense, to contest any such assessment, provided that the period for contesting such assessment shall not exceed two years, and further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; provided further, however, that upon demand from the Bondowner or any former Bondowner, the City shall promptly reimburse the Bondowner or former Bondowner for any payments, including any taxes, interest, penalties or other charges, such Bondowner or former Bondowner is obligated to make as a result of the Determination of Taxability.

**“Event of Taxability”** means (a) the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the City, the failure to take any action by the City, or the making by the City of any misrepresentation herein or in any certificate required to be given in connection with the issuance, sale or delivery of the Bonds) that has the effect of causing interest paid or payable on the Bonds to become includable, in whole or in part, in the gross income of the Bondowner or any former Bondowner for federal income tax purposes or (b) the entry of any decree or judgment by a court of competent jurisdiction, or the taking of any official action by the Internal Revenue Service or the Department of the Treasury, which decree, judgment or action is final and non-appealable under applicable procedural law, in either case, which has the effect of causing interest paid or payable on the Bonds to



become includable, in whole or in part, in the gross income of the Bondowner or any former Bondowner for federal income tax purposes.

**“Expenses”** means all reasonable and necessary expenses of operation, maintenance and repair of the System and keeping the System in good repair and working order (other than interest paid on System Revenue Bonds and depreciation and amortization charges during the period of determination), including without limiting the generality of the foregoing, current maintenance charges, expenses of reasonable upkeep and repairs, salaries, wages, costs of materials and supplies, Paying Agent fees and expenses, annual audits, periodic Consultant’s reports, a properly allocated share of charges for insurance, the cost of purchased water, gas and power, if any, obligations (other than for borrowed money or for rents payable under capital leases) incurred in the ordinary course of business, liabilities incurred by endorsement for collection or deposit of checks or drafts received in the ordinary course of business, deposits required to be made to a rebate fund for any System Revenue Bonds, short-term obligations incurred and payable within a particular fiscal year, other obligations or indebtedness incurred for the purpose of leasing (pursuant to a true or operating lease) equipment, fixtures, inventory or other personal property, and all other expenses incident to the operation of the System, but excluding all general administrative expenses of the City not related to the operation of the System.

**“Federal Tax Certificate”** means the Federal Tax Certificate, in substantially the form attached as **Exhibit B**, executed by the City on the date of issuance of the Bonds, as the same may be amended or supplemented in accordance with the provisions thereof.

**“Insurance Consultant”** means an individual or firm selected by the City qualified to survey risks and to recommend insurance coverage for entities engaged in operations similar to those of the System and having a favorable reputation for skill and experience in making such surveys and recommendations.

**“Interest Payment Date”** means the Stated Maturity of an installment of interest on any Bond.

**“Lender”** means Regions Equipment Finance Corporation, Birmingham, Alabama, the purchaser of the Bonds.

**“Maturity”** when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for optional or mandatory redemption or otherwise.

**“Net Revenues”** means all Revenues less all Expenses.

**“Ordinance”** means this Ordinance as from time to time amended in accordance with the terms hereof.

**“Outstanding”** means, when used with reference to Bonds, as of any particular date, all Bonds theretofore issued and delivered hereunder, except the following Bonds:

- (a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of **Section 1101**; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been registered and delivered hereunder.

**“Parity Bonds”** means the Series 2016 Bonds, the Series 2019 Bonds and any additional bonds or other obligations hereafter issued or incurred pursuant to **Section 902** and standing on a parity and equality with the Bonds with respect to the payment of principal and interest from the Net Revenues of the System.

**“Parity Ordinances”** means the Series 2016 Ordinance, the Series 2019 Ordinance and any additional ordinance or ordinances under which any Parity Bonds are hereafter issued pursuant to **Section 902**.

**“Paying Agent”** means the City Clerk and any successors and assigns.

**“Permitted Investments”** means any of the following securities and obligations, if and to the extent the same are at the time legal for investment of the City’s moneys held in the funds and accounts referred to in **Section 501**:

- (a) United States Government Obligations;
- (b) bonds, notes or other obligations of the State of Missouri, or any political subdivision of the State of Missouri, that at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized rating service;
- (c) repurchase agreements with any bank, bank holding company, savings and loan association, trust company or other financial institution organized under the laws of the United States or any state, that are continuously and fully secured by any one or more of the securities described in clause (a) or (b) above and have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such repurchase agreements and are held in a custodial or trust account for the benefit of the City;
- (d) obligations of the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, the Farmers Home Administration and the Federal Home Loan Mortgage Corporation;
- (e) certificates of deposit or time deposits, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of the United States or any state, provided that such certificates of deposit or time deposits shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c) above, inclusive, which shall have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such certificates of deposit or time deposits; and
- (f) any other securities or investments that are lawful for the investment of moneys held in such funds or accounts under the laws of the State of Missouri.

**“Person”** means any natural person, corporation, partnership, limited liability company, firm, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

**“Project”** means acquiring, constructing, extending and improving the System.

**“Project Fund”** means the fund by that name ratified by **Section 501**.

**“Record Date”** for the interest payable on any Interest Payment Date means the 15th day (whether or not a Business Day) of the calendar month preceding such Interest Payment Date.

**“Redemption Date”** when used with respect to any Bond to be redeemed means the date fixed for such redemption pursuant to the terms of this Ordinance.

**“Redemption Price”** when used with respect to any Bond to be redeemed means the price at which such Bond is to be redeemed pursuant to the terms of this Ordinance, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

**“Revenue Fund”** means the fund by that name ratified by **Section 501**.

**“Revenues”** means all income and revenues derived from the operation of the System, including investment income, sales tax revenues which have been annually appropriated by the City or which are limited solely to the payment of improvements to or expenses of the System, and any amounts deposited in escrow in connection with the acquisition, construction, remodeling, renovation and equipping of facilities to be applied during the period of determination to pay interest on System Revenue Bonds, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets and any other moneys of the City which have been appropriated by the Board of Aldermen to pay expenses of the System or other Debt Service Requirements.

**“Series 2016 Bonds”** means the City’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2016, issued in the original principal amount of \$4,000,000.

**“Series 2016 Ordinance”** means Ordinance No. 16-32 of the City adopted on April 4, 2016 authorizing the issuance of the Series 2016 Bonds.

**“Series 2019 Bonds”** means the City’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2019, issued in the original principal amount of \$4,000,000.

**“Series 2019 Ordinance”** means Ordinance No. 19-09 of the City adopted on January 23, 2019 authorizing the issuance of the Series 2019 Bonds.

**“Special Record Date”** means the date prior to the payment date of Defaulted Interest fixed by the Paying Agent pursuant to **Section 204**.

**“Stated Maturity”** when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Ordinance as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

**“Subsidy Payments”** means funds received (or with respect to **Section 902(b)** funds that are reasonably expected to be received) by the City that either (a) must be used or (b) have been used (or with respect to **Section 902(b)** are reasonably expected to be used) to reduce the interest or principal payments on System Revenue Bonds. Such Subsidy Payments include, but are not limited to, payments received by the City through a federal or State of Missouri program.

**“System”** means the entire combined waterworks plant and system and sewerage plant and system owned and operated by the City for the production, storage, treatment and distribution of water, and for the collection, treatment and disposal of sewage, to serve the needs of the City and its inhabitants and others,

including all appurtenances and facilities connected therewith or relating thereto, together with all extensions, improvements, additions and enlargements thereto hereafter made or acquired by the City.

**“System Revenue Bonds”** means, collectively, the Bonds, the Parity Bonds and all other revenue bonds or other obligations that are payable out of, or secured by, the Net Revenues of the System.

**“United States Government Obligations”** means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States of America, or securities which represent an undivided interest in such obligations, which obligations are rated in the same rating category or higher as the United States of America by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the City.

## ARTICLE II

### AUTHORIZATION OF BONDS

**Section 201. Authorization of Bonds.** The City is authorized and directed to issue a series of bonds of the City, designated “Combined Waterworks and Sewerage System Revenue Bonds, Series 2023,” in the principal amount of \$3,500,000 (the “Bonds”), for the purpose of providing funds to pay the costs of the Project and the costs of issuing the Bonds.

#### **Section 202. Description of Bonds.**

(a) The Bonds shall consist of one fully-registered bond. The Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be substantially in the form set forth in **Exhibit A** and shall be subject to registration, transfer and exchange as provided in **Section 205**. The Bonds shall be dated the date of original issuance and delivery thereof, shall become due on July 1, 2038 (subject to redemption prior to their Stated Maturity as provided in **Article III**) and shall bear interest at the rate of 3.64% per annum (computed on the basis of a 360-day year of twelve 30-day months) from the dated date thereof or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable semiannually on January 1 and July 1 in each year, beginning on January 1, 2024.

(b) Notwithstanding the foregoing, upon the occurrence of a Determination of Taxability the interest rate on the Bonds shall be increased to a rate providing the Bondowners an after-tax yield on the Bonds at least equal to the after-tax yield the Bondowners could have received if a Determination of Taxability had not occurred (the “Taxable Rate”), and the Bonds shall thereafter bear interest at the Taxable Rate. Additionally, following a Determination of Taxability, the City agrees to pay to the Bondowners on demand (1) an amount equal to the difference between (i) the amount of interest that would have been paid to the Bondowners from the date of the original issuance of the Bonds to and including the date of the Determination of Taxability, had the Bonds borne interest at the Taxable Rate during such period, and (ii) the amount of interest actually paid to the Bondowners during such period, and (2) any interest, penalties or charges owed by the Bondowners as a result of interest on the Bonds becoming included in the gross income of the Bondowners, together with any and all attorneys’ fees, court costs or other out-of-pocket costs incurred by the Bondowners in connection therewith.

### **Section 203. Designation of Paying Agent.**

(a) The City Clerk is hereby designated as the City's paying agent for the payment of principal of and interest on the Bonds and as bond registrar with respect to the registration, transfer and exchange of Bonds (herein called the "Paying Agent").

(b) The City will at all times maintain a Paying Agent meeting the qualifications herein described for the performance of the duties hereunder. The City reserves the right to appoint a successor Paying Agent by (1) filing with the Paying Agent then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent and appointing a successor, and (2) causing notice of the appointment of the successor Paying Agent to be given by first-class mail to each Bondowner. The Paying Agent may resign upon giving written notice by first-class mail to the City and the Bondowners not less than 60 days prior to the date such resignation is to take effect. No resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of the Paying Agent.

(c) Every Paying Agent appointed hereunder shall at all times be either (1) the City Clerk or (2) a commercial banking association or corporation or trust company located in the State of Missouri, organized and in good standing and doing business under the laws of the United States of America or of the State of Missouri and subject to supervision or examination by federal or state regulatory authority.

(d) The Paying Agent shall be paid its fees and expenses for its services in connection herewith, which fees and expenses shall be paid as other Expenses are paid.

### **Section 204. Method and Place of Payment of Bonds.**

(a) The principal or Redemption Price of and interest on the Bonds shall be payable in any coin or currency of the United States of America that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

(b) The principal or Redemption Price of each Bond shall be paid at Maturity by check, electronic transfer or draft to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the office of the Paying Agent. Notwithstanding anything contained herein to the contrary, the Bonds only need to be presented for payment upon final maturity or redemption in full.

(c) The interest payable on each Bond on any Interest Payment Date shall be paid to the Registered Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (1) by check or draft mailed by the Paying Agent to such Registered Owner at the address shown on the Bond Register or (2) by electronic transfer to such Registered Owner upon written notice signed by such Registered Owner and given to the Paying Agent by such Registered Owner not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the name and address of the bank (which shall be in the continental United States), its ABA routing number and the account number to which such Registered Owner wishes to have such transfer directed and an acknowledgment that an electronic transfer fee is payable.

(d) Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Registered Owner of such Bond on the relevant Record Date and shall be payable to the Registered Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The City shall notify the Paying Agent in writing

of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds, the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest, which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the City of such Special Record Date and, in the name and at the expense of the City, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first-class mail, postage prepaid, to each Registered Owner of a Bond entitled to such notice at the address of such Registered Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

(e) The Paying Agent shall keep a record of payment of the principal and Redemption Price of and interest on all Bonds and shall, upon the written request of the City, forward a copy or summary of such records to the City.

#### **Section 205. Registration, Transfer and Exchange of Bonds.**

(a) The City covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of the Paying Agent for the registration, transfer and exchange of Bonds as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

(b) The Bonds may be transferred in whole only, and the Lender agrees that it will only offer, sell, pledge, transfer or exchange any of the Bonds it purchases (1) in accordance with an available exemption from the registration requirements of Section 5 of the Securities Act of 1933, as amended, (2) in accordance with any applicable state securities laws and (3) in accordance with the provisions of this Ordinance. Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the office of the Paying Agent, the Paying Agent shall transfer or exchange such Bond for a new Bond or Bonds in any authorized denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange. Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

(c) In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The City shall pay the fees and expenses of the Paying Agent for the registration, transfer and exchange of Bonds provided for by this Ordinance and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Paying Agent, are the responsibility of the Registered Owners of the Bonds. If any Registered Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Registered Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Registered Owner hereunder or under the Bonds.

(d) The City and the Paying Agent shall not be required (1) to register the transfer or exchange of any Bond after notice calling such Bond or portion thereof for redemption has been given or during the period of 15 days next preceding the first mailing of such notice of redemption, or (2) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving

written notice from the City of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to **Section 204**.

(e) The City and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

(f) At reasonable times and under reasonable regulations established by the Paying Agent, the Bond Register may be inspected and copied by the Registered Owners of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Registered Owners whose authority is evidenced to the satisfaction of the Paying Agent.

#### **Section 206. Execution, Authentication and Delivery of Bonds.**

(a) Each of the Bonds, including any Bonds issued in exchange or as substitution for the Bonds initially delivered, shall be signed by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the City Clerk, and shall have the official seal of the City affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bond ceases to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes, as if such Person had remained in office until delivery. Any Bond may be signed by such Persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

(b) The Mayor and City Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified and when duly executed, to deliver the Bonds to the Paying Agent for authentication.

(c) The Bonds shall have endorsed thereon a certificate of authentication substantially in the form set forth in **Exhibit A**, which shall be manually executed by an authorized signatory of the Paying Agent, but it shall not be necessary that the same signatory sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Ordinance or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Paying Agent. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Ordinance. Upon authentication, the Paying Agent shall deliver the Bonds to or upon the order of the Lender, upon payment to the City of the purchase price of the Bonds.

#### **Section 207. Mutilated, Destroyed, Lost and Stolen Bonds.**

(a) If (1) any mutilated Bond is surrendered to the Paying Agent, or the Paying Agent receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (2) there is delivered to the City and the Paying Agent such security or indemnity as may be required by the Paying Agent, then, in the absence of notice to the City and the Paying Agent that such Bond has been acquired by a bona fide purchaser, the City shall execute and the Paying Agent shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

(b) If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Paying Agent in its discretion may pay such Bond instead of delivering a new Bond.

(c) Upon the issuance of any new Bond under this Section, the City or the Paying Agent may require the payment by the Registered Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) in connection therewith.

(d) Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the City and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds.

**Section 208. Cancellation and Destruction of Bonds Upon Payment.** All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be canceled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so canceled and shall file an executed counterpart of such certificate with the City.

**Section 209. Sale of Bonds.** The City hereby accepts the Lender's proposal, a copy of which is attached as **Exhibit C**, to purchase the Bonds, and the Mayor or the City Administrator is authorized to execute the proposal. The City is authorized to sell the Bonds to the Lender at a purchase price of \$3,500,000. The Bonds shall be delivered to or upon the order of the Lender as soon as practicable after the adoption of this Ordinance, upon payment therefor in accordance with the terms of sale. The City agrees to pay the Lender's costs associated with the Lender's purchase of the Bonds, as set forth in the proposal.

### ARTICLE III

#### REDEMPTION OF BONDS

##### **Section 301. Redemption of Bonds.**

(a) *Optional Redemption.* At the option of the City, the Bonds or portions thereof may be called for redemption and payment prior to their Stated Maturity on July 1, 2031 and thereafter as a whole or in part on 10 days' written notice at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date.

(b) *Mandatory Redemption.* The Bonds will be subject to mandatory redemption and payment prior to their Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The payments specified in **Section 602(b)** that are to be deposited into the Debt Service Account shall be sufficient to redeem, and the City shall redeem on July 1 in each year, the following principal amounts of the Bonds:



**Bonds maturing July 1, 2038**

<u>Year</u>	<u>Principal Amount</u>
2024	\$160,000
2025	180,000
2026	190,000
2027	195,000
2028	205,000
2029	210,000
2030	220,000
2031	230,000
2032	240,000
2033	250,000
2034	260,000
2035	270,000
2036	285,000
2037	295,000
2038 <sup>†</sup>	310,000

<sup>†</sup> Final Maturity

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the City may: (1) deliver to the Paying Agent for cancellation Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired, or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Bonds subject to mandatory redemption on said mandatory Redemption Date from any Registered Owner thereof, whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical. Each Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the City to redeem the Bonds on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for the Bonds in chronological order, and the principal amount of the Bonds to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the City intends to exercise any option granted by the provisions of clauses (1) or (2) above, the City will, on or before the 45th day next preceding each mandatory Redemption Date, furnish to the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1) and (2) are to be complied with, with respect to such mandatory redemption payment.

**Section 302. Selection of Bonds to Be Redeemed.**

(a) The Paying Agent shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Paying Agent at least 45 days prior to the Redemption Date of written instructions from the City specifying the principal amount, Stated Maturity, Redemption Date and Redemption Price of the Bonds to be called for redemption. If any Bonds are refunded more than 90 days in advance of such Redemption Date, any escrow agreement entered into by the City in connection with such refunding shall provide that such written instructions to the Paying Agent shall be given by the City or by the escrow agent on behalf of the City not less than 45 days prior to the Redemption Date. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in **Section 303** are met. The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Bonds hereunder, and Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any

action by the City and whether or not the City shall hold in the Debt Service Account moneys available and sufficient to effect the required redemption.

(b) Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof. When less than all of the Outstanding Bonds are to be redeemed, such Bonds shall be redeemed in inverse order of their Stated Maturity or mandatory Redemption Date.

(c) In the case of a partial redemption of Bonds, when Bonds of denominations greater than \$5,000 are then Outstanding, then for all purposes in connection with such redemption each \$5,000 of face value shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond are selected for redemption, then upon notice of intention to redeem such \$5,000 unit or units, the Registered Owner of such Bond or the Registered Owner's duly authorized agent shall present and surrender such Bond to the Paying Agent (1) for payment of the Redemption Price and interest to the Redemption Date of such \$5,000 unit or units of face value called for redemption, and (2) for exchange, without charge to the Registered Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Registered Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the Redemption Date to the extent of the \$5,000 unit or units of face value called for redemption (and to that extent only). Notwithstanding anything contained herein to the contrary, the Bonds only need to be presented for payment upon final maturity or redemption in full.

### **Section 303. Notice and Effect of Call for Redemption.**

(a) Unless waived by any Registered Owner of Bonds to be redeemed, official notice of any redemption shall be given by the Paying Agent on behalf of the City by mailing a copy of an official redemption notice by first-class mail at least 10 days prior to the Redemption Date to each Registered Owner of the Bonds to be redeemed at the address shown on the Bond Register.

(b) All official notices of redemption shall be dated and shall contain the following information:

(1) the Redemption Date;

(2) the Redemption Price;

(3) if less than all Outstanding Bonds are to be redeemed, the identification number and Stated Maturity (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;

(4) a statement that on the Redemption Date the Redemption Price will become due and payable upon each Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and

(5) the place where such Bonds are to be surrendered for payment of the Redemption Price.

(c) The failure of any Registered Owner to receive notice given as heretofore provided or any defect therein shall not invalidate any redemption.

(d) All notices of optional redemption shall be irrevocable.

(e) Official notice of redemption having been given as aforesaid, the Bonds or portions of the Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the City defaults in the payment of the Redemption Price) such Bonds or portions of the Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been redeemed shall be canceled and destroyed by the Paying Agent as provided herein and shall not be reissued.

## **ARTICLE IV**

### **SECURITY FOR BONDS**

#### **Section 401. Security for Bonds.**

(a) The Bonds shall be special, limited obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues of the System, and the City hereby pledges said Net Revenues to the payment of the principal of and interest on the Bonds. The Bonds shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional or statutory provision, limitation or restriction, and the taxing power of the City is not pledged to the payment of the Bonds, either as to principal or interest.

(b) The covenants and agreements of the City contained herein and in the Bonds shall be for the equal benefit, protection and security of the legal Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Ordinance.

(c) The Bonds shall stand on a parity and be equally and ratably secured with respect to the payment of principal and interest from the Net Revenues of the System and in all other respects with any Parity Bonds. The Bonds shall not have any priority with respect to the payment of principal or interest from the Net Revenues or otherwise over any Parity Bonds, and any Parity Bonds shall not have any priority with respect to the payment of principal or interest from the Net Revenues or otherwise over the Bonds.

## **ARTICLE V**

### **CREATION AND RATIFICATION OF FUNDS AND ACCOUNTS; DEPOSIT AND APPLICATION OF BOND PROCEEDS**

**Section 501. Establishment of Funds and Accounts.** There are hereby created or ratified and ordered to be established and maintained in the treasury of the City the following separate funds and accounts to be known respectively as the:

- (a) Combined Waterworks and Sewerage System Project Fund (the "Project Fund").
- (b) Combined Waterworks and Sewerage System Revenue Fund (the "Revenue Fund").

(c) Debt Service Account for Combined Waterworks and Sewerage System Revenue Bonds, Series 2023 (the “Debt Service Account”).

The funds and accounts referred to above shall be maintained and administered by the City solely for the purposes and in the manner as provided in the Act and in this Ordinance and the Parity Ordinances so long as any of the Bonds or the Parity Bonds remain outstanding within the meaning of this Ordinance and the Parity Ordinances.

**Section 502. Deposit of Bond Proceeds.** The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds in the Project Fund and applied in accordance with **Section 503**.

**Section 503. Application of Moneys in the Project Fund.**

(a) Moneys in the Project Fund shall be used solely for the purpose of paying (1) the costs of the Project in accordance with the plans and specifications therefor prepared by the Consultant or the City’s engineer(s), heretofore approved by the Board of Aldermen of the City and on file in the office of the City Clerk, including any alterations in or amendments to said plans and specifications deemed advisable by the Consultant or the City’s engineer(s) and approved by the Board of Aldermen of the City and (2) the costs of issuing the Bonds.

(b) Withdrawals from the Project Fund shall be made only when authorized by the Board of Aldermen of the City and only on duly authorized and executed warrants or vouchers therefor accompanied by a certificate executed by the Consultant or the City’s engineer(s) that such payment is being made for a purpose within the scope of this Ordinance and that the amount of such payment represents only the contract price of the property, equipment, labor, materials or services being paid for or, if such payment is not being made pursuant to an express contract, that such payment is not in excess of the reasonable value thereof. Nothing hereinbefore contained shall prevent the payment out of the Project Fund of all costs and expenses incident to the issuance of the Bonds and interest accruing on the Bonds during the period of construction of the Project or withdrawals of sums for investment or reinvestment purposes under the terms of this Ordinance without a certificate from the Consultant or the City’s engineer(s).

(c) Upon completion of the Project, all surplus moneys remaining in the Project Fund and not required for the payment of unpaid costs thereof shall be deposited into the Debt Service Account.

## **ARTICLE VI**

### **APPLICATION OF REVENUES**

**Section 601. Revenue Fund.** The City covenants and agrees that from and after the delivery of the Bonds, and continuing as long as any of the Bonds remain Outstanding hereunder, all of the Revenues derived and collected from the operation of the System shall, as and when received, be paid and deposited into the Revenue Fund unless otherwise specifically provided by this Ordinance. Said Revenues shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the City and shall not be commingled with any other moneys, revenues, funds and accounts of the City. The Revenue Fund shall be administered and applied solely for the purposes and in the manner provided in this Ordinance and the Parity Ordinances.

**Section 602. Application of Moneys in Funds and Accounts.** The City covenants and agrees that from and after the delivery of the Bonds, and continuing as long as any of the Bonds remain Outstanding

hereunder, it will on the first day of each month administer and allocate all of the moneys then held in the Revenue Fund as follows:

(a) *Operation and Maintenance.* There shall first be paid and credited from month to month as a first charge against the Revenue Fund the Expenses of the System as the same becomes due and payable.

(b) *Debt Service Account.* There shall next be paid and credited monthly to the Debt Service Account, to the extent necessary to meet on each Bond Payment Date the payment of all interest on and principal of the Bonds, the following sums:

(1) Beginning on June 1, 2023, and continuing on the first day of each month thereafter to and including December 1, 2023, an amount not less than 1/7 of the amount of interest becoming due on the Bonds on January 1, 2024, and thereafter, beginning on January 1, 2024, and continuing on the first day of each month thereafter, so long as any of the Bonds remain Outstanding and unpaid, an amount not less than 1/6 of the amount of interest that will become due on the Bonds on the next succeeding Interest Payment Date; and

(2) Beginning on June 1, 2023, and continuing on the first day of each month thereafter to and including June 1, 2024, an amount not less than 1/13 of the amount of principal becoming due on the Bonds on July 1, 2024, and thereafter, beginning on July 1, 2024, and continuing on the first day of each month thereafter, so long as any of the Bonds remain Outstanding and unpaid, an amount not less than 1/12 of the amount of principal that will become due on the Bonds on the next succeeding Maturity date.

The amounts required to be paid and credited to the Debt Service Account pursuant to this Section shall be paid at the same time and on a parity with the amounts at the time required to be paid and credited to the debt service accounts established for the payment of principal and interest on the Parity Bonds under the provisions of the Parity Ordinances.

All amounts paid and credited to the Debt Service Account shall be expended and used by the City for the sole purpose of paying the interest on and principal of the Bonds as and when the same becomes due on each Bond Payment Date.

If at any time the moneys in the Revenue Fund are insufficient to make in full the payments and credits at the time required to be made to the Debt Service Account and to the debt service accounts established to pay the principal of and interest on any Parity Bonds, the available moneys in the Revenue Fund shall be divided among such debt service accounts in proportion to the respective principal amounts of said series of Parity Bonds at the time outstanding which are payable from the moneys in said debt service accounts.

(c) *Surplus Moneys.* After all payments and credits required at the time to be made under the provisions of paragraphs (a) and (b) of this Section have been made, all moneys remaining in the Revenue Fund may be expended and used for the following purposes as determined by the governing body of the City:

(1) Paying the cost of the operation, maintenance and repair of the System to the extent that may be necessary;

(2) Paying the cost of extending, enlarging or improving the System;

(3) Preventing default in, anticipating payments into or increasing the amounts in the Debt Service Account referred to in paragraph (b) of this Section, or establishing or increasing the amount of any debt service account, debt service reserve account or depreciation and replacement account created by the City for the payment of the Parity Bonds;

(4) Calling, redeeming and paying prior to their Stated Maturity, or, at the option of the City, purchasing in the open market at the best price obtainable not exceeding the Redemption Price (if any bonds are callable), the Bonds or the Parity Bonds, including principal, interest and redemption premium, if any; or

(5) Any other lawful purpose in connection with the operation of the System and benefiting the System.

So long as any of the Bonds remain Outstanding, no moneys derived from the operation of the System shall be diverted to any other purpose.

(d) *Deficiency of Payments into Funds and Accounts.* If at any time the Revenues are insufficient to make any payment on the date or dates hereinbefore specified, the City will make good the amount of such deficiency by making additional payments or credits out of the first available Revenues thereafter received from the operation of the System, such payments and credits being made and applied in the order hereinbefore specified in this Section.

**Section 603. Transfer of Funds to Paying Agent.** The City Administrator or other authorized officer of the City is hereby authorized and directed to withdraw from the Debt Service Account sums sufficient to pay the principal of and interest on the Bonds as and when the same becomes due on any Bond Payment Date, and to forward such sums to the Paying Agent in a manner which ensures the Paying Agent will have available funds in such amounts on or before the Business Day immediately preceding each Bond Payment Date. If, through lapse of time, or otherwise, the Registered Owners of Bonds are no longer entitled to enforce payment of their obligations, it shall be the duty of the Paying Agent forthwith to return said funds to the City. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance.

**Section 604. Payments Due on Saturdays, Sundays and Holidays.** In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

**Section 605. Nonpresentment of Bonds.** If any Bond is not presented for payment when the principal thereof becomes due at Maturity and if funds sufficient to pay such Bond have been made available to the Paying Agent, then all liability of the City to the Registered Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Ordinance or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due at Maturity, the Paying Agent shall, without liability for interest thereon, repay to the City the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Registered Owner thereof shall be entitled to look

only to the City for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the City shall not be liable for any interest thereon and shall not be regarded as a trustee of such money. Notwithstanding anything contained herein to the contrary, the Bonds only need to be presented for payment upon final maturity or redemption in full.

## **ARTICLE VII**

### **DEPOSIT AND INVESTMENT OF MONEYS**

#### **Section 701. Deposit and Investment of Moneys.**

(a) Moneys in each of the funds and accounts created by and referred to in this Ordinance shall be deposited in a bank or banks or other legally permitted financial institutions located in the State of Missouri that are members of the Federal Deposit Insurance Corporation. All such deposits shall be continuously and adequately secured by the banks or financial institutions holding such deposits as provided by the laws of the State of Missouri.

(b) Moneys held in any fund or account referred to in this Ordinance may be invested in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than the date when the moneys invested may be needed for the purpose for which such fund or account was created. All earnings on any investments held in any fund or account shall accrue to and become a part of such fund or account. In determining the amount held in any fund or account under any of the provisions of this Ordinance, obligations shall be valued at the lower of the cost or the market value thereof.

## **ARTICLE VIII**

### **GENERAL COVENANTS AND PROVISIONS**

The City covenants and agrees with each of the Registered Owners of any of the Bonds that so long as any of the Bonds remain Outstanding and unpaid it will comply with each of the following covenants:

**Section 801. Efficient and Economical Operation.** The City will continuously own and will operate the System as a revenue producing facility in an efficient and economical manner and will keep and maintain the same in good repair and working order. The City will establish and maintain such rules and regulations for the use of the System as may be necessary to assure maximum utilization and most efficient operation of the System.

**Section 802. Rate Covenant.** The City in accordance with and subject to applicable legal requirements will fix, establish, maintain and collect such rates and charges for the use and services furnished by or through the System which, together with other Revenues, will be sufficient to (a) pay the costs of the operation and maintenance of the System; (b) pay the principal of and interest on the Bonds as and when the same becomes due at the Maturity thereof or on any Interest Payment Date; (c) enable the City to have in each fiscal year Net Revenues not less than 110% of the actual Debt Service Requirements for such fiscal year; and (d) provide reasonable and adequate reserves for the payment of the Bonds and the interest thereon and for the protection and benefit of the System as provided in this Ordinance. The City will require the prompt payment of accounts for service rendered by or through the System and will promptly take whatever action is legally permissible to enforce and collect delinquent charges. The City will, from time to time as often as necessary, in accordance with and subject to applicable legal

requirements, revise the rates and charges aforesaid in such manner as may be necessary or proper so that the Net Revenues will be sufficient to cover the obligations under this Section and otherwise under the provisions of this Ordinance. If in any fiscal year Net Revenues are an amount less than as hereinbefore provided, the City will immediately employ a Consultant to make recommendations with respect to such rates and charges. A copy of the Consultant's report and recommendations shall be filed with the City Clerk and the Lender and shall be furnished to any Registered Owner of the Bonds requesting a copy of the same, at the cost of such Registered Owner. The City shall, to the extent feasible, follow the recommendations of the Consultant.

**Section 803. Reasonable Charges for all Services.** None of the facilities or services provided by the System will be furnished to any user (excepting the City itself) without a reasonable charge being made therefor. If the Revenues derived from the System are at any time insufficient to pay the reasonable Expenses of the System and also to pay all interest on and principal of the Bonds as and when the same becomes due, then the City will thereafter pay into the Revenue Fund a fair and reasonable payment in accordance with effective applicable rates and charges for all services furnished to the City or any of its departments by the System, and such payments will continue so long as the same may be necessary in order to prevent or reduce the amount of any default in the payment of the interest on or principal of the Bonds.

**Section 804. Restrictions on Mortgage or Sale of System.** The City will not mortgage, pledge or otherwise encumber the System or any part thereof, nor will it sell, lease or otherwise dispose of the System or any material part thereof; provided, however, the City may:

(a) sell at fair market value any portion of the System which has been replaced by other similar property of at least equal value, or which ceases to be necessary for the efficient operation of the System, and in the event of sale, the City will apply the proceeds to either (1) redemption of Outstanding Bonds in accordance with the provisions governing repayment of Bonds in advance of their Stated Maturity, or (2) replacement of the property so disposed of by other property the revenues of which shall be incorporated into the System as hereinbefore provided;

(b) cease to operate, abandon or otherwise dispose of any property which has become obsolete, nonproductive or otherwise unusable to the advantage of the City;

(c) lease, (1) as lessor, any real or personal property which is unused or unimproved, or which has become obsolete, nonproductive or otherwise unusable to the advantage of the City, or which is being acquired as a part of a lease/purchase financing for the acquisition and/or improvement of such property, and/or (2) as lessee, with an option of the City to purchase, any real or personal property for the extension and improvement of the System. Property being leased as lessor and/or lessee pursuant to this subparagraph (c) shall not be treated as part of the System for purposes of this **Section 804** and may be mortgaged, pledged or otherwise encumbered; and

(d) sell, lease or convey all or substantially all of the System to another entity or enter into a management contract with another entity, with the prior written consent of the Registered Owners (which will not be unreasonably withheld), if:

(1) The transferee entity is a political subdivision organized and existing under the laws of the State of Missouri, or instrumentality thereof, or an organization described in Section 501(c)(3) of the Code, and expressly assumes in writing the due and punctual payment of the principal of and premium, if any, and interest on all outstanding System Revenue Bonds according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Ordinance;



(2) If there remains unpaid any System Revenue Bond which bears interest that is not includable in gross income under the Code, the City receives an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that under then existing law the consummation of such sale, lease or conveyance, whether or not contemplated on any date of the delivery of such System Revenue Bond, would not cause the interest payable on such System Revenue Bond to become includable in gross income under the Code;

(3) The City receives a certificate of the Consultant which demonstrates and certifies that immediately upon such sale or conveyance the transferee entity will not, as a result thereof, be in default in the performance or observance of any covenant or agreement to be performed or observed by it under this Ordinance;

(4) Such transferee entity possesses such licenses to operate the System as may be required if it is to operate the System; and

(5) The City receives an opinion of Bond Counsel, in form and substance satisfactory to the City, as conclusive evidence that any such sale, lease or conveyance, and any such assumption, is permitted by law and complies with the provisions of this Section.

**Section 805. Insurance.** The City will carry and maintain insurance with respect to the System and its operations against such casualties, contingencies and risks (including but not limited to property and casualty, fire and extended coverage insurance upon all of the properties forming a part of the System insofar as the same are of an insurable nature, public liability, business interruption or workers' compensation and employee dishonesty insurance), such insurance to be of the character and coverage and in such amounts as would normally be carried by other enterprises engaged in similar activities of comparable size and similarly situated. In the event of loss or damage, the City, with reasonable dispatch, will use the proceeds of such insurance in reconstructing and replacing the property damaged or destroyed, or in paying the claims on account of which such proceeds were received, or if such reconstruction or replacement is unnecessary or impracticable, then the City will pay and deposit the proceeds of such insurance into the Revenue Fund. The City will annually review the insurance it maintains with respect to the System to determine that it is customary and adequate to protect its property and operations. The City may elect to be self-insured for all or any part of the foregoing requirements if (a) the City annually obtains a written evaluation with respect to such self-insurance program from an Insurance Consultant, (b) the evaluation is to the effect that the self-insurance program is actuarially sound, (c) unless the evaluation states that such reserves are not necessary, the City deposits and maintains adequate reserves for the self-insurance program with a corporate trustee, who may be the Paying Agent, and (d) in the case of workers' compensation, adequate reserves created by the City for such self-insurance program are deposited and maintained in such amount and manner as are acceptable to the State of Missouri. The City shall pay any fees and expenses of such Insurance Consultant in connection therewith. The cost of all insurance obtained pursuant to the requirements of this Section shall be paid as an Expense out of the Revenues.

**Section 806. Books, Records and Accounts.** The City will install and maintain proper books, records and accounts (entirely separate from all other records and accounts of the City) in which complete and correct entries will be made of all dealings and transactions of or in relation to the System. Such accounts shall show the amount of Revenues received from the System, the application of such Revenues, and all financial transactions in connection therewith. Said books shall be kept by the City according to standard accounting practices as applicable to the operation of facilities comparable to the System.

**Section 807. Annual Budget.** Prior to the commencement of each fiscal year, the City will cause to be prepared and filed with the City Clerk a budget setting forth the estimated receipts and expenditures of the System for the next succeeding fiscal year. Upon request, the City Clerk will mail a copy of said budget to the Lender. Said annual budget shall be prepared in accordance with the requirements of the laws of Missouri and shall contain all information that is required by such laws.

**Section 808. Annual Audit.**

(a) Within 210 days after the end of the fiscal year, the City will cause an audit to be made of the System for the preceding fiscal year by a certified public accountant or firm of certified public accountants to be employed for that purpose and paid from the Revenues. Said annual audit shall cover in reasonable detail the operation of the System during such fiscal year and shall evidence compliance with the rate covenant contained in **Section 802**.

(b) The City shall provide a copy of the audit to the Lender within 210 days after the end of the fiscal year. The audit shall at all times during usual business hours be open to examination and inspection by any taxpayer, any user of the services of the System, any Registered Owner of any of the Bonds or by anyone acting for or on behalf of such taxpayer, user or Registered Owner.

(c) As soon as possible after the completion of the annual audit, the governing body of the City shall review the audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Ordinance and the Act, the City will promptly cure such deficiency and will promptly proceed to increase the rates and charges to be charged for the use and services furnished by the System as may be necessary to adequately provide for such requirements.

**Section 809. Right of Inspection.** The Lender and any Registered Owner or Owners of not less than 10% of the principal amount of the Bonds then Outstanding shall have the right at all reasonable times to inspect the System and all records, accounts and data relating thereto, and shall be furnished all such information concerning the System and the operation thereof which the Lender or such Registered Owner or Owners may reasonably request.

**Section 810. Administrative Personnel.** The City shall use its best efforts to employ at all times administrative personnel experienced and well qualified to operate the System. The City further agrees that such administrative personnel shall be employed in sufficient numbers to ensure that the System will be operated in a prudent and efficient manner, following procedures generally accepted within the United States of America.

**Section 811. Performance of Duties and Covenants.** The City will faithfully and punctually perform all duties, covenants and obligations with respect to the operation of the System now or hereafter imposed upon the City by the Constitution and laws of the State of Missouri and by the provisions of this Ordinance.

**Section 812. Tax Covenants.**

(a) The City covenants and agrees that it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from federal gross income of the interest on the Bonds.

(b) The City also covenants and agrees to comply with all provisions and requirements of the Federal Tax Certificate, which is hereby approved, with such changes therein as shall be approved by the Mayor and the Assistant City Administrator, which officers are hereby authorized to execute the Federal

Tax Certificate for and on behalf of the City, such officers' signatures thereon being conclusive evidence of their approval thereof.

**Section 813. Parity Bond Certification.** The City hereby represents and covenants that the Bonds directed to be issued by this Ordinance are so issued in full compliance with the restrictions and conditions upon which the City may issue additional bonds payable out of the revenues derived from the operation of the System and which stand on a parity with the Parity Bonds heretofore issued and outstanding, as set forth and contained in the Parity Ordinances, and that the Bonds herein directed to be issued are so issued in all respects on a parity and equality with the Parity Bonds heretofore issued and outstanding.

## ARTICLE IX

### ADDITIONAL BONDS AND OBLIGATIONS

**Section 901. Senior Lien Bonds.** The City covenants and agrees that so long as any of the Bonds remain Outstanding, the City will not issue any additional bonds or incur or assume any other debt obligations appearing as liabilities on the balance sheet of the System for the payment of moneys determined in accordance with generally accepted accounting principles consistently applied, including capital leases as defined by generally accepted accounting principles, payable out of the Net Revenues of the System or any part thereof which are superior to the Bonds.

**Section 902. Parity Lien Bonds and Other Obligations.** The City covenants and agrees that so long as any of the Bonds remain Outstanding, it will not issue any additional bonds or other long-term obligations payable out of the Net Revenues of the System or any part thereof which stand on a parity or equality with the Bonds ("Parity Bonds") unless the following conditions are met:

(a) The City shall not be in default in the payment of principal of or interest on any Bonds or any Parity Bonds at the time outstanding or in making any payment at the time required to be made into the respective funds and accounts created by and referred to in this Ordinance or any Parity Ordinance (unless such additional revenue bonds or obligations are being issued to provide funds to cure such default); and

(b) The City shall either:

(1) Certify that the average annual Net Revenues as set forth in the two most recent annual audits for fiscal years preceding the issuance of additional bonds have been equal to at least 110% of the average annual debt service required to be paid out of said revenues in any succeeding fiscal year on account of both principal (at maturity or upon mandatory redemption) and interest becoming due with respect to all System Revenue Bonds of the City, including the additional bonds proposed to be issued. In determining the Net Revenues for the purpose of this subsection, the City may retain a Consultant who may adjust said Net Revenues by adding thereto, if the City has made any increase in rates for the use and services of the System and such increase has been in effect at any time during the two fiscal years for which annual audits are available preceding the issuance of additional bonds, the amount, as estimated by the Consultant, of the additional Net Revenues which would have resulted from the operation of the System during said fiscal years had such rate increase been in effect for the entire period; or

(2) Obtain a certification from a Consultant that the average annual Net Revenues projected to be derived by the City for the two fiscal years immediately following the fiscal year in which the improvements to the System, the cost of which is being financed by such additional bonds, are to be in commercial operation, shall be equal to at least 110% of the average annual debt service required to be paid out of said revenues in any succeeding fiscal year following such commercial operation on account of both principal (at maturity or upon mandatory redemption) and interest becoming due with respect to all System Revenue Bonds of the City, including the additional bonds proposed to be issued. In determining the projected Net Revenues for the purpose of this subsection, the Consultant may adjust said Net Revenues by adding thereto any estimated increase in Net Revenues resulting from any increase in rates for the use and services of the System which, in the opinion of the Consultant, are economically feasible and reasonably considered necessary based on projected operations of the System.

(c) Additional revenue bonds of the City issued under the conditions set forth in this Section shall stand on a parity with the Bonds and shall enjoy complete equality or lien on and claim against the Net Revenues with the Bonds, and the City may make equal provision for paying said bonds and the interest thereon out of the Revenue Fund and may likewise provide for the creation of reasonable debt service accounts and debt service reserve accounts for the payment of such additional bonds and the interest thereon out of moneys in the Revenue Fund.

**Section 903. Junior Lien Bonds and Other Obligations.** Nothing contained in this Section shall prohibit or restrict the right of the City to issue additional revenue bonds or other revenue obligations for any lawful purpose in connection with the operation of the System and benefiting the System and to provide that the principal of and interest on said revenue bonds or obligations shall be payable out of the Net Revenues of the System, provided at the time of the issuance of such additional revenue bonds or obligations the City is not in default in the performance of any covenant or agreement contained in this Ordinance (unless such additional revenue bonds or obligations are being issued to provide funds to cure such default), and provided further that such additional revenue bonds or obligations shall be junior and subordinate to the Bonds so that if at any time the City is in default in paying either interest on or principal of the Bonds, or if the City is in default in making any payments required to be made by it under the provisions of paragraph (a) or (b) of **Section 602**, the City shall make no payments of either principal of or interest on said junior and subordinate revenue bonds or obligations until said default or defaults be cured. If any such junior and subordinate revenue bonds or obligations are issued, the City, subject to the provisions aforesaid, may make provision for paying the principal of and interest on said revenue bonds or obligations out of moneys in the Revenue Fund. Principal and interest payments on any junior and subordinate bonds or obligations payable from Net Revenues shall be made on the same days as principal and interest are due on the Parity Bonds.

**Section 904. Refunding Bonds.** The City shall have the right, without complying with the provisions of **Section 902**, to refund any of the Bonds under the provisions of any law then available, and the refunding bonds so issued shall enjoy complete equality of pledge with any of the Bonds or the Parity Bonds which are not refunded, if any, upon the Net Revenues; provided, however, that if only a portion of the Bonds are refunded and if said Bonds are refunded in such manner that the refunding bonds bear a higher average rate of interest or become due on a date earlier than that of the Bonds which are refunded, then said Bonds may be refunded without complying with the provisions of **Section 902** only by and with the written consent of the Registered Owners of a majority in principal amount of the Bonds not refunded.

## ARTICLE X

## **DEFAULT AND REMEDIES**

**Section 1001. Acceleration of Maturity Upon Default.** The City covenants and agrees that if it defaults in the payment of the principal of or interest on any of the Bonds as the same becomes due on any Bond Payment Date, or if the City or its governing body or any of the officers, agents or employees thereof fail or refuse to comply with any of the provisions of this Ordinance or of the Constitution or statutes of the State of Missouri, and such default continues for a period of 30 days after written notice specifying such default has been given to the City by the Registered Owner of any Bond then Outstanding, then, at any time thereafter and while such default continues, the Registered Owners of not less than 25% in principal amount of the Bonds then Outstanding may, by written notice to the City filed in the office of the City Clerk or delivered in person to said City Clerk, declare the principal of all Bonds then Outstanding to be due and payable immediately, and upon any such declaration given as aforesaid, all of said Bonds shall become and be immediately due and payable, anything contained in this Ordinance or in the Bonds to the contrary notwithstanding. This provision, however, is subject to the condition that if at any time after the principal of said Outstanding Bonds has been so declared to be due and payable, all arrears of interest upon all of said Bonds, except interest accrued but not yet due on such Bonds, and all arrears of principal upon all of said Bonds has been paid in full and all other defaults, if any, by the City under the provisions of this Ordinance and under the provisions of the statutes of the State of Missouri have been cured, then and in every such case the Registered Owners of a majority in principal amount of the Bonds then Outstanding, by written notice to the City given as hereinbefore specified, may rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any rights consequent thereon.

**Section 1002. Other Remedies.** The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Registered Owners of the Bonds, and the Registered Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Registered Owners of Bonds similarly situated:

- (a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Registered Owner or Owners against the City and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Ordinance or by the Constitution and laws of the State of Missouri;
- (b) by suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Registered Owners of the Bonds.

**Section 1003. Limitation on Rights of Bondowners.** No one or more Bondowners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Bondowners.

**Section 1004. Remedies Cumulative.** No remedy conferred herein upon the Bondowners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by any Bondowner shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies

consequent thereon. No delay or omission of any Bondowner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Bondowners by this Ordinance may be enforced and exercised from time to time and as often as may be deemed expedient. If any suit, action or proceedings taken by any Bondowner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to such Bondowner, then, and in every such case, the City and the Bondowners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Bondowners shall continue as if no such suit, action or other proceedings had been brought or taken.

**Section 1005. No Obligation to Levy Taxes.** Nothing contained in this Ordinance shall be construed as imposing on the City any duty or obligation to levy any taxes either to meet any obligation incurred herein or to pay the principal of or interest on the Bonds.

## **ARTICLE XI**

### **DEFEASANCE**

#### **Section 1101. Defeasance.**

(a) When any or all of the Bonds or the interest payments thereon have been paid and discharged, then the requirements contained in this Ordinance and the pledge of Net Revenues made hereunder and all other rights granted hereby shall terminate with respect to the Bonds or interest payments so paid and discharged. Bonds or the interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Ordinance if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State of Missouri and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, money and/or Defeasance Obligations which, together with the interest to be earned thereon, will be sufficient for the payment of the principal or Redemption Price of said Bonds, and/or interest to accrue on such Bonds to the Stated Maturity or Redemption Date, as the case may be, or if default in such payment shall have occurred on such date, then to the date of the tender of such payments; provided, however, that if any such Bonds shall be redeemed prior to the Stated Maturity thereof, (1) the City shall have elected to redeem such Bonds, and (2) either notice of such redemption shall have been given, or the City shall have given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Paying Agent to redeem such Bonds in compliance with **Section 302(a)**. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or the interest payments thereon, shall be and are hereby assigned, transferred and set over to the Paying Agent or other commercial bank or trust company in trust for the respective Registered Owners of the Bonds, and such money shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or other commercial bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance.

(b) To accomplish a defeasance of the Bonds or the interest payments thereon when the City will rely on interest to be earned on any Defeasance Obligations deposited as described in paragraph (a) above, the City shall cause to be delivered to the Paying Agent (1) a report of an independent firm of nationally recognized certified public accountants verifying the sufficiency of the escrow established to pay the Bonds in full at Maturity ("Verification Report"), (2) an escrow trust agreement between the City and an escrow agent, and (3) an opinion of Bond Counsel to the effect that the Bonds are no longer

“Outstanding” under this Ordinance; each Verification Report and defeasance opinion shall be acceptable in form and substance and addressed to the City. Bonds shall be deemed “Outstanding” under this Ordinance unless and until they are in fact paid and retired or the criteria of this Section are met.

## **ARTICLE XII**

### **MISCELLANEOUS PROVISIONS**

#### **Section 1201. Amendments.**

(a) The rights and duties of the City and the Bondowners, and the terms and provisions of the Bonds or of this Ordinance, may be amended or modified at any time in any respect by ordinance of the City with the written consent of the Registered Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Registered Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk, but no such modification or alteration shall:

- (1) extend the maturity of any payment of principal or interest due upon any Bond;
- (2) effect a reduction in the amount which the City is required to pay by way of principal of or interest on any Bond;
- (3) permit the creation of a lien on the Net Revenues of the System prior or equal to the lien of the Bonds or Parity Bonds;
- (4) permit preference or priority of any Bonds over any other Bonds;
- (5) alter the optional Redemption Date of any Bond; or
- (6) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Ordinance.

(b) Any provision of the Bonds or of this Ordinance may, however, be amended or modified by ordinance duly adopted by the governing body of the City at any time in any respect with the written consent of the Registered Owners of all of the Bonds at the time Outstanding.

(c) Without notice to or the consent of any Bondowners, the City may amend or supplement this Ordinance for the purpose of curing any formal defect, omission, inconsistency or ambiguity herein or in connection with any other change herein which is not materially adverse to the interests of the Bondowners.

(d) Every amendment or modification of the provisions of the Bonds or of this Ordinance to which the written consent of the Bondowners is given, as above provided, shall be expressed in an ordinance adopted by the governing body of the City amending or supplementing the provisions of this Ordinance and shall be deemed to be a part of this Ordinance. A certified copy of every such amendatory or supplemental ordinance, if any, and a certified copy of this Ordinance shall always be kept on file in the office of the City Clerk, and shall be made available for inspection by any Bondowner or a prospective purchaser or owner of any Bond authorized by this Ordinance, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance or of this Ordinance will be sent by the City Clerk to any such Bondowner or prospective Bondowner.

(e) Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the City Clerk a copy of the ordinance of the City hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Registered Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

(f) The City shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Ordinance made hereunder which affects the duties or obligations of the Paying Agent under this Ordinance.

**Section 1202. Notices, Consents and Other Instruments by Bondowners.**

(a) Any notice, consent, request, direction, approval, objection or other instrument required by this Ordinance to be signed and executed by the Bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondowners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds (other than the assignment of ownership of a Bond, which is provided for in the form of Bond attached as **Exhibit A**), if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the City and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(1) The fact and date of the execution by any Person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(2) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

(b) In determining whether the Bondowners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Ordinance, Bonds owned by the City shall be disregarded and deemed not to be Outstanding under this Ordinance, except that, in determining whether the Bondowners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Bondowners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Bondowners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the City.

**Section 1203. Electronic Transactions.** The parties agree that the transaction described herein may be conducted and related documents may be sent, received and stored by electronic means.

**Section 1204. Further Authority.** The officers of the City, including the Mayor, the City Administrator, the Assistant City Administrator and the City Clerk, shall be, and they hereby are, authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.



**Section 1205. Severability.** If any section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

**Section 1206. Governing Law.** This Ordinance shall be governed by and constructed in accordance with the applicable laws of the State of Missouri.

**Section 1207. Effective Date.** This Ordinance shall take effect and be in full force and effect from and after its passage and approval.

FIRST READING: April 17, 2023.

SECOND READING: April 17, 2023.

PASSED AND APPROVED this \_\_\_\_\_ day of April, 2023, by a vote of \_\_\_\_\_ ayes, \_\_\_\_\_ nays, \_\_\_\_\_ abstentions and \_\_\_\_\_ absent.

CITY OF JACKSON, MISSOURI

(SEAL)

BY: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**EXHIBIT A TO ORDINANCE**

**(FORM OF BOND)**

**UNITED STATES OF AMERICA  
STATE OF MISSOURI**

**Registered  
No. R-1**

**Registered  
\$3,500,000**

**CITY OF JACKSON, MISSOURI**

**COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND**

**SERIES 2023**

**Interest Rate**

3.64%

**Maturity Date**

July 1, 2038

**Dated Date**

May 2, 2023

**REGISTERED OWNER: REGIONS EQUIPMENT FINANCE CORPORATION**

**PRINCIPAL AMOUNT: THREE MILLION FIVE HUNDRED THOUSAND DOLLARS**

The **CITY OF JACKSON, MISSOURI**, a fourth-class city and a political subdivision of the State of Missouri (the “City”), for value received, promises to pay to the registered owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the principal amount shown above on the maturity date shown above, unless called for redemption prior to said maturity date, and to pay interest thereon, but solely from the source and in the manner herein specified, at the interest rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months) from the dated date shown above or from the most recent interest payment date to which interest has been paid or duly provided for, payable semiannually on January 1 and July 1 in each year, beginning on January 1, 2024, until said principal amount has been paid. Notwithstanding the foregoing, upon the occurrence of a Determination of Taxability, the rate of interest on this Bond shall be adjusted to the Taxable Rate as described in Section 202 of the Ordinance and the Registered Owner shall be entitled to certain other payments as set forth in Section 202 of the Ordinance to compensate for the occurrence of the Determination of Taxability.

The principal or redemption price of this Bond shall be paid at maturity or upon earlier redemption by check, electronic transfer or draft to the Person in whose name this Bond is registered at the maturity or redemption date thereof, upon presentation and surrender of this Bond at the office of the City Clerk (the “Paying Agent”). Notwithstanding the foregoing, this Bond only needs to be presented for payment upon final maturity or redemption in full. The interest payable on this Bond on any interest payment date shall be paid to the Person in whose name this Bond is registered on the Bond Register at the close of business on the Record Date for such interest by (a) check or draft mailed by the Paying Agent to such Registered Owner at the address shown on the Bond Register or at such other address as is furnished to the Paying

Agent in writing by such Registered Owner or (b) by electronic transfer to such Registered Owner upon written notice signed by such Registered Owner and given to the Paying Agent by such Registered Owner not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the name and address of the bank (which shall be in the continental United States), its ABA routing number and the account number to which such Registered Owner wishes to have such transfer directed and an acknowledgment that an electronic transfer fee is payable.

This Bond is one of a duly authorized series of bonds of the City designated “Combined Waterworks and Sewerage System Revenue Bonds, Series 2023,” aggregating the principal amount of \$3,500,000 (the “Bonds”), issued by the City for the purpose of providing funds to pay the costs of (a) acquiring, constructing, extending and improving the City’s combined waterworks and sewerage system (said combined waterworks and sewerage system, together with all future improvements and extensions thereto hereafter constructed or acquired by the City, being herein called the “System”), and (b) issuing the Bonds, all under authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly Chapter 108 and Chapter 250 of the Revised Statutes of Missouri, as amended, and pursuant to an election duly held in the City and an ordinance duly adopted by the governing body of the City (herein called the “Ordinance”). Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Ordinance.

At the option of the City, the Bonds or portions thereof may be called for redemption and payment prior to their Stated Maturity on July 1, 2031 and thereafter as a whole or in part on 10 days’ written notice at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date.

The Bonds are subject to mandatory redemption and payment prior to their stated maturity pursuant to the mandatory redemption requirements of the Ordinance at a redemption price equal to 100% of the principal amount represented by the Bonds being redeemed plus accrued interest to the redemption date, on July 1, 2024 and on each July 1 thereafter until maturity.

Notice of redemption, unless waived, is to be given by the Paying Agent by mailing an official redemption notice by first-class mail at least 10 days prior to the redemption date, to each Registered Owner of each of the Bonds to be redeemed at the address shown on the Bond Register. Notice of redemption having been given as aforesaid, the Bonds or portions of the Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City defaults in the payment of the redemption price) such Bonds or portions of the Bonds shall cease to bear interest.

The Bonds are special obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues of the System, and the taxing power of the City is not pledged to the payment of the Bonds, either as to principal or interest. The Bonds shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional or statutory provision, limitation or restriction. The Bonds stand on a parity and are equally and ratably secured with respect to the payment of principal and interest from the Net Revenues of the System and in all other respects with the City’s (a) Combined Waterworks and Sewerage System Revenue Bonds, Series 2016, outstanding in the aggregate principal amount of \$2,710,000 and (b) Combined Waterworks and Sewerage System Revenue Bonds, Series 2019, outstanding in the aggregate principal amount of \$3,210,000. Under the conditions set forth in the Ordinance, the City has the right to issue additional parity bonds and other obligations payable from and secured by the Net Revenues; provided, however, that such additional bonds may be so issued only in accordance with and subject to the covenants, conditions and restrictions relating thereto set forth in the Ordinance.

The City hereby covenants and agrees with the Registered Owner of this Bond that it will keep and perform all covenants and agreements contained in the Ordinance, and will fix, establish, maintain and collect such rates, fees and charges for the use and services furnished by or through the System, as will produce revenues sufficient to pay the costs of operation and maintenance of the System and pay the principal of and interest on the Bonds as and when the same becomes due. Reference is made to the Ordinance for a description of the covenants and agreements made by the City with respect to the collection, segregation and application of the Revenues, the nature and extent of the security for the Bonds, the rights, duties and obligations of the City with respect thereto, and the rights of the Registered Owners thereof.

The Bonds are issuable in the form of fully-registered Bonds in the denomination of \$5,000 or any integral multiple thereof.

The Bonds may be transferred in whole only, and the Lender agrees that it will only offer, sell, pledge, transfer or exchange this Bond (a) in accordance with an available exemption from the registration requirements of Section 5 of the Securities Act of 1933, as amended, (b) in accordance with any applicable state securities laws and (c) in accordance with the provisions of the Ordinance. This Bond may be transferred or exchanged, as provided in the Ordinance, only on the Bond Register kept for that purpose at the office of the Paying Agent, upon surrender of this Bond together with a written instrument of transfer or exchange satisfactory to the Paying Agent duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any authorized denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Ordinance and upon payment of the charges therein prescribed. The City and the Paying Agent may deem and treat the Person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes, and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the Certificate of Authentication hereon has been executed by the Paying Agent.

**IT IS HEREBY CERTIFIED AND DECLARED** that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds have existed, happened and been performed in due time, form and manner as required by law, and that before the issuance of the Bonds, provision has been duly made for the collection and segregation of the Revenues and for the application of the same as provided in the Ordinance.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, the **CITY OF JACKSON, MISSOURI**, has executed this Bond by causing it to be signed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk and its official seal to be affixed hereto or imprinted hereon.

**CERTIFICATE OF AUTHENTICATION**

**CITY OF JACKSON, MISSOURI**

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

By: \_\_\_\_\_  
Dwain Hahs, Mayor

Registration Date: \_\_\_\_\_

(Seal)

**CITY CLERK OF THE  
CITY OF JACKSON, MISSOURI,**  
Paying Agent

ATTEST:

By: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Liza Walker, City Clerk

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**ASSIGNMENT**

**FOR VALUE RECEIVED**, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
Print or Type Name, Address and Social Security Number  
or other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ agent to transfer the within Bond on the Bond Register kept by the Paying Agent for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular.

Medallion Signature Guarantee:

**EXHIBIT B TO ORDINANCE**

**FEDERAL TAX CERTIFICATE**

[On file in the Office of the City Clerk.]

**EXHIBIT C TO ORDINANCE**

**LENDER'S PROPOSAL**

[On file in the Office of the City Clerk.]



## **CERTIFICATE**

I, the undersigned, hereby certify that the above and foregoing is a true and correct copy of the Ordinance of the City of Jackson, Missouri, adopted by the Board of Aldermen on April 17, 2023, authorizing the issuance of \$3,500,000 principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 2023, as the same appears of record in my office, and that said Ordinance has not been modified, amended or repealed and is in full force and effect as of this date.

DATED: May 2, 2023.

(Seal)

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Liza Walker, City Clerk of the City of Jackson,  
Missouri