

ORDINANCE NO. 397-2023

AN ORDINANCE OF THE CITY OF NEW MEADOWS, IDAHO, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A WATER REVENUE BOND, SERIES 2018, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$673,000, FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF IMPROVEMENTS TO THE DOMESTIC WATER SYSTEM OF THE CITY OF NEW MEADOWS, ADAMS COUNTY, IDAHO; DESCRIBING THE BOND; PROVIDING FOR THE COLLECTION AND DISPOSITION OF REVENUES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND; ESTABLISHING FUNDS AND ACCOUNTS; PROVIDING COVENANTS RELATING TO THE BOND; PROVIDING FOR THE SALE OF THE BOND TO THE UNITED STATES OF AMERICA, ACTING THROUGH THE DEPARTMENT OF AGRICULTURE, RURAL UTILITIES SERVICE; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of New Meadows, Adams County, Idaho (the “City”), is a municipal corporation organized and operating under the laws of the State of Idaho; and

WHEREAS, the City owns, operates, and maintains a domestic water supply and distribution system; and

WHEREAS, the City is authorized by the Constitution and laws of Idaho to issue revenue bonds to finance all or part of the cost of acquisition, construction, and installation of improvements and betterments to the domestic water system of the City; and

WHEREAS, the City Council (the “Council”) of the City, by adoption of Ordinance No. 349-2017 on September 11, 2017, ordered a special bond election to be held within the City on November 7, 2017, for the submission to the qualified electors of the City the question of whether or not the City should be authorized to issue its revenue bonds in a principal amount not to exceed \$3,388,500 in order to provide funds for certain capital improvements to its domestic water system; and

WHEREAS, the requisite majority of the qualified electors of the City, at the special bond election of November 7, 2017, authorized the incurring of indebtedness and the issuance of revenue bonds in a principal amount not to exceed \$3,388,500; and

WHEREAS, the Council has determined that the public health, safety, and welfare will be furthered by the water improvement project described hereinafter and has further determined to issue water revenue bonds of the City, duly authorized by the electors of the City at the special bond election of November 7, 2017, in an aggregate principal amount not to exceed \$3,388,500; and

WHEREAS, Section 57-227, Idaho Code, authorizes the sale of water revenue bonds to the United States of America, acting through the Department of Agriculture, Rural Utilities Service at private sale in such manner as the Council may determine, and the Council has determined to

issue its water revenue obligations in the form of a single, amortized water revenue bond in an aggregate principal amount not to exceed \$673,000 to the United States of America, acting through the Department of Agriculture, Rural Utilities Service.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NEW MEADOWS, IDAHO, as follows:

Section 1: DEFINITIONS

As used in this Ordinance, the following words shall have the following meanings:

Acquisition or Acquire includes the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the Federal Government, the State, any public body therein or any person or entity, the condemnation, transfer, option to purchase, other contract, or other acquirement, or any combination thereof.

Additional Bonds means any bonds issued pursuant to Section 15 of this Ordinance.

Bond means the “City of New Meadows Water Revenue Bond, Series 2018,” herein authorized to be issued, sold, and delivered in the form of a single, fully registered, amortized revenue bond in a principal amount not to exceed \$673,000. The designation may be modified to reflect the actual year of issuance of the Bond.

Bond Fund means the “City of New Meadows Water Revenue Bond Fund” created by Section 12 of this Ordinance.

Bond Register means the registration books on which are maintained the names and addresses of the owners or nominees of the owners of the Bond.

Bond Registrar means the bond registrar, transfer agent, and authenticating and paying agent appointed and designated in Section 6 of this Ordinance.

Capital Improvement Fund means the “City of New Meadows Water Project Capital Improvement Fund” created by Section 10 of this Ordinance.

City means the City of New Meadows, Adams County, Idaho.

City Clerk means the Clerk of the City, or other officer of the City who is the custodian of the seal of the City and of the records of the proceedings of the City, or his/her successor in functions, if any.

Cost of Project or any phrase of similar import, means all or any part designated by the Council of the costs of the Project, or interest therein, which costs, at the option of the Council, may include all or any part of the incidental costs pertaining to the Project, including, without limitation:

- (1) Preliminary expenses advanced by the City from funds available for the use therefor, or advanced by the Federal Government, or from any other source, with approval of the Council, or any combination thereof;
- (2) The costs of making surveys, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;
- (3) The costs of appraising, printing, estimates, advice, services of engineers, architects, financial consultants, attorneys at law, clerical help, or other agents or employees;
- (4) The costs of contingencies;
- (5) The costs of the issuance of the Bond;
- (6) The costs of funding any short-term financing, bond anticipation notes, and other temporary loans pertaining to the Project and of the incidental expenses incurred in connection with such loans;
- (7) The costs of any properties, rights, easements, or other interest in properties, or any licenses, privileges, agreements and franchises; and
- (8) All other expenses necessary or desirable and pertaining to the Project, as estimated or otherwise ascertained by the Council.

Council means the City Council of the City.

Estimated Net Revenues means, for any year, the estimated Revenues of the System for such year less the estimated Operation and Maintenance Expenses for such year, based upon estimates prepared by the City Engineer or an independent engineer, or an independent certified public accountant. In computing Estimated Net Revenues, Revenues of the System may be adjusted as necessary to reflect any changed schedule of rates and charges.

Mayor means the Mayor of the City, or his/her successor in functions, if any.

Net Revenues means Revenue of the System after the deduction of Operation and Maintenance Expenses.

Operation and Maintenance Expenses or any phrase of similar import means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining, and repairing the System or of levying, collecting, and otherwise administering the Net Revenues for the payment of the Bond; and the term includes (except as limited by contract or otherwise limited by law) without limiting the generality of the foregoing:

- (1) Engineering, auditing, reporting, legal, and other overhead expenses of the various City departments directly relating and reasonably allocable to the administration of the System;
- (2) Fidelity bonds and property and liability insurance premiums pertaining to the System, or a reasonably allocable share of a premium of any blanket bond or policy pertaining thereto;
- (3) Payments to pension, retirement, health, and hospitalization funds and other insurance for the ordinary operation of the System;
- (4) Any taxes, assessments, excise taxes, or other charges which may be lawfully imposed on the City, the System, revenues therefrom, or any privilege in connection with their operation for the ordinary operation of the System;
- (5) The reasonable charges of the bond registrar, fiscal or paying agent, commercial bank, trust bank, or other depository bank pertaining to the Bond issued by the City or pertaining to the Project, if any;
- (6) Contractual services, professional services, salaries, other administrative expenses, and the cost of materials, supplies, repairs, and labor, pertaining to the issuance of the Bond and to the ordinary operation of the System; and
- (7) All other administrative, general, and commercial expenses for the ordinary operation of the System.

Ordinance means this Ordinance No. 397-2023, adopted on October 23, 2023.

Project means the domestic water system improvement project described in Section 2 of this Ordinance.

Registered Owner means the purchaser of the Bond and any subsequent transferee or purchaser of the Bond.

Reserve Fund means the “City of New Meadows Water Revenue Bond Debt Service Reserve Fund” created by Section 13 of this Ordinance.

Revenue Fund means the “City of New Meadows Water Revenue Fund” created by Section 11 of this Ordinance.

Revenue of the System means all revenues received by the City from its System and may include moneys derived from one, all, or any combination of revenue sources pertaining to the System, including, without limitation, rates, charges, rents, fees, and any other income derived from the operation or ownership of, the use of services of, or the availability of or services

pertaining to, or otherwise derived in connection with, the System or all or any part of any property pertaining to the System.

System, for purposes of this Ordinance, means the domestic water supply and distribution system of the City, as the same now exists, including its assets, real and personal, tangible and intangible, and as it may later be added to, extended, and improved, and shall include buildings, structures, utilities, or other income producing water facilities from the operation of or in connection with which the revenues of the payment of the Bond to be issued hereunder will be derived, and the lands pertaining thereto.

Treasurer means the Treasurer of the City, or his/her successor in functions, if any.

## Section 2: THE PROJECT

A. Project Description. The water improvement project consists of the acquisition, construction, and installation of improvements and betterments to the City's domestic water system, consisting generally of, but not limited to, the construction and installation of two groundwater wells and upgrades of the undersized water lines, together with the costs of engineering, legal, accounting, and other necessary professional services, costs of bond issuance, interest on borrowed funds during construction, and related improvements and costs incidental thereto (the "Project").

B. Project Changes. The Council may make changes in the Project prior to or in the course of actual construction, provided such changes are found necessary and desirable by the Council and that such changes do not substantially affect or alter the plans or the cost of the Project.

C. Costs. The total estimated cost of the Project is \$3,448,500. An amount not to exceed \$673,000 of the cost and expenses of construction and installation of the Project will be paid from the issuance and sale of the Bond, hereinafter defined, authorized to be issued at a special election held within the City on November 7, 2017. Any balance will be realized from other lawfully available funds of the City, including, but not limited to, grant and loan funds.

## Section 3: THE BOND

The Bond, designated "City of New Meadows Water Revenue Bond, Series 2018" (the "Bond"), in an aggregate principal amount not to exceed \$673,000, is hereby authorized to be issued, sold, and delivered pursuant to the Revenue Bond Act of the State of Idaho, the same being Sections 50-1027 through 50-1042, Idaho Code, and pursuant to Section 57-227 and Title 57, Chapter 9, Idaho Code. The designation of the Bond is hereby authorized to be modified to accurately reflect the year it is delivered.

The Bond shall consist of a single, transferable, amortized revenue bond, substantially in the form annexed hereto as Exhibit "A," shall be issued in fully registered form, shall be dated as of the date of its delivery, and shall bear interest on the unpaid balance, at the lower of the rate

charged by the United States of America, acting through the Department of Agriculture, Rural Utilities Service at the time of loan approval or at the time of loan closing.

The Bond shall be payable in equal annual installments of principal and interest, with the first installment of principal and interest being due one year from the date of delivery of the Bond, and annually thereafter until maturity. The final annual installment may be in such greater or lesser amount as is necessary to fully pay said Bond. The principal of and interest on the Bond shall be fully paid within forty (40) years from its date.

The sale of the Bond to the United States of America (hereinafter the “Registered Owner”), is hereby authorized and approved. The Registered Owner thereof shall have the right, at its expense, to convert said single bond to fully registered serial bonds, without coupons.

In the event that the Bond is purchased by the United States of America, the City hereby agrees to comply with the requirements of the United States of America as contained in the letter dated May 2, 2018 (hereinafter “Loan and Grant Approval Conditions”) and in the RUS Bulletin 1780-27, Loan Resolution, pertaining to the Project.

#### Section 4: EXECUTION

The Bond shall be executed by the manual signature of the Mayor, countersigned by the manual signature of the Treasurer, and attested by the manual signature of the City Clerk, and the seal of the City shall be impressed thereon.

#### Section 5: PLACE AND MANNER OF PAYMENT

Both principal of and interest on the Bond shall be payable in lawful money of the United States of America to the Registered Owner thereof, at the address of such Registered Owner as shown on the registration records of the City, or at such other address as shall be designated in writing to the City by the Registered Owner. Payment may be made by pre-authorized debit with the approval of the Registered Owner.

#### Section 6: BOND REGISTRAR

The Treasurer is hereby appointed as bond registrar, transfer agent and paying agent, and is herein referred to as the “Bond Registrar.” The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bond. The Bond Registrar is authorized, on behalf of the City, to carry out all of the Bond Registrar’s powers and duties under this Ordinance.

The Bond may be transferred only upon the books for the registration and transfer of bonds (the “Bond Register”), upon the surrender thereof to the Bond Registrar, together with a form of transfer duly executed by the Registered Owner or its attorney duly authorized in writing. Upon the transfer of the Bond, there shall be issued in the name of the transferee or transferees a new fully registered bond or bonds of any authorized denomination or denominations and of the same

maturity and interest rate, and of the same aggregate principal amount, as the surrendered bond. The new bond or bonds shall bear the same date as the date of the surrendered bond but shall bear interest from the immediately preceding interest payment date to which interest has been paid or fully provided for.

This Section is intended to provide the system of registration required by Chapter 9, Title 57, Idaho Code.

Section 7: PREPAYMENT; NO DEFEASANCE

The City reserves the right, at its option, to prepay, on any principal payment date, scheduled installments outstanding on the Bond, in whole or in part. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Bond shall, after payment of interest, be applied to principal. Partial prepayments shall be made in the amount of \$1,000 or multiples thereof. No partial prepayment shall extend or postpone the due date of any subsequent installment. Prepayments shall be made without penalty. Notice of any intended prepayment shall be mailed by certified mail to the Registered Owner of the Bond at its address appearing on the Bond Register, at least thirty (30) days prior to the prepayment date.

So long as the Bond is held by the United States of America as Registered Owner, the Bond shall not be subject to defeasance prior to maturity, in whole or in part.

Section 8: CHARGES

The City has established, may from time to time revise, and shall maintain and collect water rates and charges for furnishing the services of the System to its customers, which rates and charges are, and shall continue to be, uniform as to all persons or properties which are of the same class, which rates and charges shall be collected from the users thereof.

Section 9: PLEDGE OF REVENUES

The Net Revenues of the System are hereby pledged for the payment of the Bond and shall be used and applied in the order of priority provided in Section 11 of this Ordinance.

The City shall establish, revise, maintain, and collect charges sufficient, with other revenues received, after taking into consideration anticipated delinquencies, to provide Net Revenues equal to not less than 1.1 times the average annual debt service on the Bond.

Section 10: THE CAPITAL IMPROVEMENT FUND

There is hereby created a special fund and account known as the “City of New Meadows Water Project Capital Improvement Fund” (the “Capital Improvement Fund”), into which shall be deposited all of the proceeds of the sale of the Bond, to be used and applied for the payment of a portion of the cost and expense of the construction and installation of the Project, including the payment of the principal of and interest on all outstanding bond anticipation notes or other interim

financing. Any interest earnings on moneys invested from the Capital Improvement Fund shall remain in and be used for the purposes of the Capital Improvement Fund. The City's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties will be deposited into said Capital Improvement Fund to assure the completion of the Project.

When the Project has been completed and all costs related thereto have been paid in full, any balance remaining in the Capital Improvement Fund shall be deposited into the Bond Fund described in Section 12 of this Ordinance.

#### Section 11: THE REVENUE FUND

There is hereby created a special fund, designated the "City of New Meadows Water Revenue Fund" (the "Revenue Fund"), which shall be maintained by the Treasurer and into which the Revenue of the System shall be deposited immediately upon its receipt.

A. Use of Revenues. The Revenue of the System shall be used for the payment of the following obligations in the following order of priority:

- (1) First Charge and Lien: The costs of Operation and Maintenance Expenses.
- (2) Second Charge and Lien: The principal of and interest on the Bond by payment into the Bond Fund, as provided in Section 12 of this Ordinance, and any Additional Bonds.
- (3) Third Charge and Lien: To maintain the Reserve Fund, including the short-lived asset replacement reserve, created by Section 13 of this Ordinance; and
- (4) To administer surplus funds as provided in Subsection C hereof and Section 14.

B. Interest Earnings. Interest earnings on deposits in the Water Revenue Fund shall remain in and be used for the purposes of the Water Revenue Fund.

C. Surplus Funds. Funds remaining in the Revenue Fund after having been applied to designated funds for the purposes provided in this section shall constitute surplus funds and may be used for the purposes set forth in Section 14 of this Ordinance.

#### Section 12: THE BOND FUND

There is hereby created a special fund, designated the "City of New Meadows Water Revenue Bond Fund" (the "Bond Fund"), which shall be maintained by the Treasurer into which shall be deposited, from the Net Revenues of the System, the following amounts:

A. Each annual installment of principal and interest payable on the Bond shall be payable into the Bond Fund from the Revenue Fund not less than ten (10) days prior to each

payment date, and paid from the Bond Fund to the Registered Owner on or before each payment date. In the event that the single Bond is converted into fully registered serial bonds, as provided in Section 3 of this Ordinance, then there shall be deposited into the Bond Fund from the Revenue Fund on or before the 10<sup>th</sup> day prior to any interest or principal and interest payment date the amount of interest or principal and interest then falling due on the Bond. The moneys herein allocated shall be used solely to pay currently maturing installments of principal of and interest on the Bond or any serial bonds to which the Bond may be converted.

B. If the City for any reason shall fail to make such deposit, then an amount equal to the deficiency shall be deposited into the Bond Fund from the Reserve Fund, described hereinafter.

### Section 13: DEBT SERVICE RESERVE FUND

A. Deposits. There is hereby created a special fund known as the “City of New Meadows Water Revenue Bond Debt Service Reserve Fund” (the “Reserve Fund”), which shall be maintained by the Treasurer so long as the Bond remains outstanding. There shall be deposited into the Reserve Fund, each month from the date of issuance of the Bond, from Net Revenues, an amount equal to one-twelfth of one-tenth of an annual payment of principal and interest on the Bond, and a like sum shall be deposited therein from Net Revenues on each month thereafter, until the reserve equals one annual payment of principal and interest. In addition and until the Bond is fully repaid, at least \$29,196 shall be deposited annually in the Reserve Fund for short-lived asset replacement. The sum so accumulated shall be maintained as a debt service reserve fund and a short-lived asset replacement reserve fund for the Bond, or any serial bonds to which the Bond may be converted, until the Bond or serial bonds have been paid in full. The City shall establish such subaccounts within the Reserve Fund, and shall comply with such restrictions on the investment of moneys in such subaccounts, as may be required by the Tax Certificate executed by the City at the time of the delivery of the Bond.

B. Deficiencies or Withdrawals. Whenever any moneys are withdrawn from the Reserve Fund to pay the principal of or interest on the Bond, or if a deficiency exists therein, the amount so withdrawn or the amount of such deficiency shall be restored by monthly deposits from Net Revenues until there has been restored therein the gross amount provided heretofore in subdivision A of this Section.

C. Refunding. In the event refunding bonds are ever issued, the amount set aside into the Reserve Fund to secure the payment of the Bond may be used to retire bonds or may be held in the Reserve Fund to secure payment of the refunding bonds issued, to refund the outstanding refunding bonds, or may be held in the Reserve Fund to secure the payment of any other issue or series of bonds payable out of the Bond Fund and issued on a parity with the Bond.

D. Investments. All moneys in the Reserve Fund may be kept in cash or deposited in institutions permitted by law in an amount in each institution not greater than the amount insured by any department or agency of the United States Government, or may be invested and reinvested in any readily marketable legal investment permitted for City moneys maturing not later than the last maturity date of any outstanding bonds. Interest earned on any such investment shall be deposited, directly as earned, into the Bond Fund.

#### Section 14: SURPLUS FUNDS

Funds remaining in the Revenue Fund after having been applied to or designated funds for the purposes provided in Section 11A of this Ordinance shall constitute surplus funds and may be used for any of the following purposes:

- A. To pay the costs of unusual or extraordinary maintenance of or repair to the System;
- B. To pay the principal of and interest on any subordinate lien obligations which may have been issued to provide water facilities in or for the City;
- C. To improve, extend, enlarge, or replace any City domestic water facilities;
- D. To acquire or construct additional domestic water facilities in or for the City;
- E. To call or redeem prior to their fixed dates of maturity any bonds or other obligations issued to provide domestic water facilities for the City; and
- F. For any other lawful System purpose.

#### Section 15: ADDITIONAL BONDS OR OTHER OBLIGATIONS

A. Limitation Upon Issuance of Parity Obligations. Nothing contained in this Ordinance shall be construed in such a manner as to prevent the issuance by the City of Additional Bonds or other additional obligations payable from the Net Revenues on a parity with, but neither prior nor superior to, the lien of the Bond herein authorized; provided, however, that before any such Additional Bonds or other additional parity obligations are authorized or actually issued:

- (1) Any consent required by the Loan and Grant Approval Conditions and Loan Resolution referred to in Section 3 of this Ordinance shall have been obtained.
- (2) The City is not, and has not been, in default as to any payments required by the provisions of this Ordinance for a period of not less than twelve (12) months immediately preceding the issuance of such Additional Bonds or other additional parity obligations.
- (3) The Net Revenues of the System for the past twelve (12) consecutive months immediately preceding the year of the issuance of such Additional Bonds shall have been sufficient to pay the Operation and Maintenance Expenses of the water System for said past twelve (12) months, and, in addition, sufficient so that the Net Revenues for such preceding year equal an amount representing at least 110% of the annual principal and interest requirements of the outstanding Bond, and any other obligations of the City payable from the Net Revenues of the System.

(4) The Estimated Net Revenues of the System for the twelve-month period immediately succeeding the issuance of the bonds or other obligations proposed to be issued will be not less than 110% of the annual principal and interest requirements of the Bond and any other obligations of the City payable from the Net Revenues of the System, plus the average annual principal and interest requirements of the Additional Bonds or other obligations proposed to be issued.

(5) A written certification by an independent certified public accountant that the 110% Net Revenue requirement of subsection (3) above, and the 110% Estimated Net Revenues requirement of subsection (4) above have been satisfied shall be obtained and filed with the City, which certification shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell, and deliver said Additional Bonds or other additional obligations on a parity with the Bond authorized herein.

(6) The foregoing limitations, or any of them, may be waived or modified by the written consent of the Registered Owner of not less than 75% of the principal amount of the Bond then outstanding.

B. Parity Bonds to Complete Project. In the event grant funds, plus the proceeds of the Bond provided for in this Ordinance, are insufficient to complete the Project, then parity bonds or other obligations may be issued to complete the Project, and the restrictions set forth in this Section pertaining to the issuance of parity bonds shall not apply, provided that any consent required by the Loan and Grant Conditions and Loan Resolution referred to in Section 3 of this Ordinance shall have been obtained.

C. Subordinate Lien Bonds. No provision of this Ordinance shall be deemed to limit or restrict the power of the City to issue bonds, notes or warrants, or to make pledges of the revenues which shall be subordinate as to the lien of the Bond and which shall provide for compliance with the current provisions hereof prior to the application of any funds to said subordinate purpose, provided that any consent required by the Loan and Grant Approval Conditions and Loan Resolution referred to in Section 3 of this Ordinance shall have been obtained.

D. Refunding. The restrictions with respect to the issuance of parity obligations shall not apply if such additional parity bonds proposed to be issued are for the sole purpose of refunding outstanding water revenue bonds.

#### Section 16: INVESTMENTS

Surplus funds in any of the Funds set forth in this Ordinance may be invested in securities as permitted by law. Any income from these investments will be considered Revenue of the System.

#### Section 17: GENERAL COVENANTS

For the protection and security of the Bond, it is covenanted and agreed to and with the Registered Owner of the Bond, that the City will perform the following covenants:

A. Complete Project. It will complete the construction of the Project with all practical dispatch and in a sound and economical manner.

B. Operate System. It will operate the System in an efficient and economical manner and prescribe, revise, and collect such charges in connection therewith so that the services, facilities, and properties of the System may be furnished at the lowest possible cost consistent with sound economy and prudent management.

C. Good Repair. It will operate, maintain, preserve, and keep the System and every part hereof in good repair, working order, and condition.

D. Corporate Status. It will maintain its status as a municipal corporation of the State of Idaho and will take no steps to disincorporate or otherwise change its corporate status.

E. Preserve Security. It will preserve and protect the security of the Bond and the rights of the Registered Owner thereof.

F. Collect Revenues. It will collect and hold in trust the revenues and other funds pledged to the payment of the Bond and apply such revenue or other funds only as provided in this Ordinance.

G. Service Bond. It will pay and cause to be paid punctually the principal of the Bond and the interest thereon on the date or dates and at the place or places and in the manner mentioned in the Bond, and in accordance with this Ordinance.

H. Pay Claims. It will pay and discharge any and all lawful claims for labor, materials, and supplies which, if unpaid, might by law become a lien or charge upon the Revenue of the System, or any part of said Revenue of the System, or any funds in the hands of the Treasurer, prior or superior to or on parity with the lien of the Bond or which might impair the security of the Bond, to the end that the priority and security of the Bond shall be fully preserved and protected.

I. Encumbrances. It will not mortgage or otherwise encumber, sell, lease, or dispose of the System or any part thereof, nor enter into any lease or agreement which would impair or impede the operation of the System or any part thereof necessary to secure adequate revenues for the payment of the principal of and interest on the Bond, nor which would otherwise impair or impede the rights of the Registered Owner of the Bond with respect to such revenues of the operation of the System without provisions for the retirement of the Bond then outstanding from the proceeds thereof, nor, so long as the Bond is held by the United States of America as Registered Owner, without the consent of the Registered Owner.

J. Insurance. It will procure and keep in force insurance upon all buildings and structures of the System and the machinery and equipment therein, which are usually insured by entities operating like property, in good and responsible insurance companies. The amount of the insurance shall be such as may be required to adequately protect it and the Registered Owner of the Bond from loss due to any casualty, and in the event of any such loss, the proceeds shall be used to repair or restore the System or for the payment of the Bond issued under this Ordinance.

K. Fidelity Bonds. It will procure suitable fidelity bonds covering all of its officers and other employees charged with the operation of the System and the collection and disbursement of revenues therefrom.

L. Engineers. It will employ consulting engineers of acknowledged reputation, skill, and experience in the improvement and operation of the System for any unusual or extraordinary or significant items of maintenance, repair, or betterments as shall be required from time to time, all reports, estimates, and recommendations of such consulting engineers to be filed with the Clerk and furnished to the Registered Owner of the Bond issued hereunder, upon request.

M. Accounts. It will keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the System, and it will furnish complete operating and income statements upon request.

N. Delinquencies. It will not furnish water service to any customer whatsoever free of charge, and it shall not later than sixty (60) days after an account becomes delinquent, take such legal action as may be reasonable to enforce collection of any collectible delinquent account.

#### Section 18: SPECIAL COVENANTS

The City further covenants and agrees:

A. In accordance with Section 149(a) of the Internal Revenue Code of 1986, as amended (the "Code"), the Bond, and any serial bonds to which it may be converted, shall be issued and remain in fully registered form in order that interest thereon be excluded from gross income of the owner or owners for federal income tax purposes. The City covenants and agrees that it will take no action to permit the Bond, or any serial bonds to which it may be converted, to be issued in or converted to bearer or coupon form.

B. The Bond is hereby designated as a "qualified tax-exempt obligation" within the meaning and for the purposes of Section 265(b)(3) of the Code, and the City does not reasonably anticipate that it will designate more than \$10,000,000, including the Bond, as qualified tax-exempt obligations during the calendar year in which the Bond is issued.

C. None of the proceeds of the Bond will be used, directly or indirectly, (i) to make or finance loans to persons or (ii) in any trade or business carried on by any person (other than as a member of the general public). For purposes of the preceding sentence, the term "person" does not include a government unit other than the United States or any agency or instrumentality thereof,

and the term “trade or business” means any activity carried on by a person other than a natural person. The City further covenants and agrees to take no action which would cause the Bond to be a “private activity bond,” nor will it omit to take any action necessary to prevent the Bond from becoming a “private activity bond,” within the meaning of Section 141 of the Code.

D. The City has general taxing powers. The Bond is not a “private activity bond” within the meaning of Section 141 of the Code. 95% or more of the net proceeds of the Bond is to be used for the local governmental activities of the City. The City has no subordinate entities. The City has not issued, and does not reasonably anticipate that it will issue, tax-exempt obligations in the calendar year in which the Bond is issued in a face amount which exceeds \$5,000,000. Accordingly, under Section 148(f)(4)(D) of the Code, the City is not required to pay rebates to the United States under Section 148(f) of the Code.

E. The Mayor, Clerk, and Treasurer, and other appropriate officials of the City, or any one or more of such officials, as may be appropriate, are each hereby authorized and directed to execute, on behalf of the City, such certificate or certificates as shall be necessary to establish that the Bond is not an “arbitrage bond” within the meaning of Section 148 of the Code and the Treasury Regulations promulgated thereunder, and to establish that interest on the Bond is not and will not become includable in the gross income of the owner(s) of the Bond under the Code and applicable regulations. The City covenants and agrees that no use will be made of the proceeds of the Bond, or any funds of the City which may, pursuant to Section 148 of the Code and applicable regulations, be deemed to be proceeds of the Bond, which would cause the Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code. The City further covenants to comply throughout the term of the Bond with the requirements of Section 148 of the Code and the regulations promulgated thereunder in order to prevent the Bond from becoming an “arbitrage bond.”

F. The City will comply with the information reporting requirements of Section 149(e) of the Code.

G. None of the proceeds of the Bond will be used to reimburse the City for capital expenditures made prior to the date of delivery of the Bond unless the City, not later than 60 days after the payment of such expenditure, shall have adopted an official intent resolution as provided by Section 1.150-2 of the Treasury Regulations.

#### Section 19: AMENDMENTS

A. The City from time to time and at any time may adopt an ordinance or ordinances supplemental hereto, which ordinance or ordinances thereafter shall become a part of this Ordinance, for any one or more of all of the following purposes:

- (1) To add to the covenants and agreements of the City in this Ordinance, other covenants and agreements thereafter to be observed, which shall not adversely affect the interest of the Registered Owner of the Bond, or to surrender any right or power herein reserved.

(2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting, or supplementing any defective provisions contained in this Ordinance, or any ordinance authorizing future bonds in regard to matters or questions arising under such ordinances as the Council may deem necessary or desirable and not inconsistent with such ordinances and which shall not adversely affect, in any material respect, the interest of the Registered Owner of the Bond.

Any such supplemental ordinance may be adopted without the consent of the Registered Owner of the Bond at any time outstanding, notwithstanding any of the provisions of subsection B of this Section.

B. With the consent of the Registered Owner of not less than 75% in aggregate principal amount of the Bond at the time outstanding, the Council may adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall:

(1) Extend the fixed maturities of the Bond, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, if applicable, without the consent of the Registered Owner of the Bond so affected; or

(2) Reduce the aforesaid percentage of the Registered Owner required to approve any such supplemental ordinance.

It shall not be necessary for the consent of the Registered Owner under this subsection B to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

C. Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations of the City under this Ordinance and the Registered Owner of the Bond outstanding hereunder shall thereafter be determined, exercised, and enforced thereunder, subject in all respects to such modification and amendments, and all terms and conditions of any such supplemental ordinance shall be deemed to be part of the terms and conditions of this Ordinance for any and all purposes.

D. Any Bond executed and delivered after the execution of any supplemental ordinance adopted pursuant to the provisions of this Section may have a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, new bonds so modified as to conform, in the opinion of the Council, to any modification of this Ordinance contained in any such supplemental ordinance, may be prepared and delivered without

cost to the Registered Owner of the Bond then outstanding, upon surrender for cancellation of the Bond.

Section 20: VALIDITY OF ISSUANCE

The Bond is issued pursuant to the Idaho Revenue Bond Act, being Idaho Code Sections 50-1027 through 50-1042. This recital is conclusive evidence of the validity of the Bond and the regularity of its issuance.

Section 21: REGISTERED OWNER'S REMEDIES - RECEIVER

By action or suit in equity, the Registered Owner or subsequent owners of the Bond may, in the event of a material violation of any of the foregoing covenants, cause the appointment of a receiver, which receiver may enter and take possession of the System and any Net Revenues for the payment of the Bond, prescribe fees to be derived from the System, and collect, receive, and apply all Net Revenues of other moneys pledged for the payment of the Bond in the same manner as the City might do in accordance with the obligations of the City.

Section 22: ORDINANCE A CONTRACT

The provisions of this Ordinance shall constitute a contract between the City and the Registered Owner so long as the Bond hereby authorized remains unpaid.

Section 23: SEVERABILITY

If any one or more of the covenants or agreements provided in this Ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bond.

Section 24: REPEALER

All prior ordinances or parts thereof, to the extent inconsistent herewith, are hereby repealed and shall, to the extent of such inconsistency, have no further force or effect.

Section 25: AUTHORIZATION

The Mayor, City Clerk, and City Treasurer, or any one of such officers, as may be appropriate to the circumstances, are hereby authorized to execute, on behalf of the City, all such additional documents as may be necessary to effect the sale and delivery of the Bond.

Section 26: PUBLICATION AND EFFECTIVE DATE

This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon passage, approval, and publication.

DATED this 23<sup>rd</sup> day of October, 2023.

CITY OF NEW MEADOWS  
Adams County, Idaho

By \_\_\_\_\_  
Mayor

ATTEST:

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

( S E A L )