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**CITY OF GAINESVILLE, FLORIDA**

**Utilities System Revenue Bonds**

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**AMENDED AND RESTATED  
UTILITIES SYSTEM  
REVENUE BOND RESOLUTION**

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**Adopted January 30, 2003**

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# TABLE OF CONTENTS

Page

<b>ARTICLE I</b>	
<b>DEFINITIONS AND STATUTORY AUTHORITY..... 1</b>	
Section 101.	Definitions..... 1
Section 102.	Authority for this Resolution ..... 15
Section 103.	Resolution to Constitute Contract..... 15
<b>ARTICLE II</b>	
<b>AUTHORIZATION AND ISSUANCE OF BONDS..... 16</b>	
Section 201.	Authorization of Bonds..... 16
Section 202.	General Provisions for Issuance of Bonds ..... 16
Section 203.	Bonds Other than Refunding Bonds, Parity Commercial Paper Notes, Parity Medium-Term Notes and Parity Reimbursement Obligations..... 18
Section 204.	Refunding Bonds ..... 18
Section 205.	Estimates by the City ..... 19
Section 206.	Credit Obligations..... 19
Section 207.	Reimbursement Obligations..... 20
Section 208.	Special Provisions Relating to Capital Appreciation Bonds, Deferred Income Bonds and Parity Reimbursement Obligations ..... 20
Section 209.	Provisions Concerning Qualified Hedging Contracts..... 21
Section 210.	Commercial Paper Notes. .... 21
Section 211.	Medium-Term Notes..... 22
<b>ARTICLE III</b>	
<b>GENERAL TERMS AND PROVISIONS OF BONDS..... 23</b>	
Section 301.	Medium of Payment; Form and Date; Letters and Numbers ..... 23
Section 302.	Legends..... 23
Section 303.	Execution and Authentication..... 23
Section 304.	Interchangeability of Bonds..... 24
Section 305.	Negotiability, Transfer and Registry..... 24
Section 306.	Regulations With Respect to Exchanges and Transfers ..... 24
Section 307.	Bonds Mutilated, Destroyed, Stolen or Lost..... 25
Section 308.	Payment of Interest on Bonds; Interest Rights Reserved..... 25
Section 309.	Book Entry Bonds..... 25
<b>ARTICLE IV</b>	
<b>REDEMPTION OF BONDS ..... 28</b>	
Section 401.	Privilege of Redemption and Redemption Price..... 28
Section 402.	Redemption at the Election or Direction of the City ..... 28
Section 403.	Redemption Otherwise Than at City’s Election or Direction..... 29
Section 404.	Selection of Bonds to be Redeemed ..... 29
Section 405.	Notice of Redemption ..... 29

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
Section 406. Payment of Redeemed Bonds .....	30
Section 407. Limitation on City’s Ability to Condition or Revoke Notice of Redemption .....	30
Section 408. Cancellation and Destruction of Bonds .....	30
<b>ARTICLE V</b>	
ESTABLISHMENT OF FUNDS AND APPLICATION THEREOF .....	30
Section 501. The Pledge Effected by the Resolution.....	30
Section 502. Establishment of Funds.....	31
Section 503. Construction Fund.....	32
Section 504. Revenues and Revenue Fund .....	33
Section 505. Disposition of Revenues .....	33
Section 506. Rate Stabilization Fund.....	34
Section 507. Debt Service Fund – Debt Service Account .....	34
Section 508. Debt Service Fund – Debt Service Reserve Account .....	35
Section 509. Subordinated Indebtedness Fund .....	37
Section 510. Utilities Plant Improvement Fund.....	38
Section 511. Credits Against Sinking Fund Installments .....	39
Section 512. Subordinated Indebtedness .....	39
<b>ARTICLE VI</b>	
DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS .....	39
Section 601. Depositaries.....	39
Section 602. Deposits.....	40
Section 603. Investment of Certain Funds.....	40
Section 604. Valuation and Sale of Investments .....	41
<b>ARTICLE VII</b>	
PARTICULAR COVENANTS OF THE CITY.....	42
Section 701. Payment of Bonds .....	42
Section 702. Extension of Payment of Bonds.....	42
Section 703. Offices for Servicing Bonds.....	42
Section 704. Further Assurance .....	42
Section 705. Power to Issue Bonds and Pledge Revenues and Other Funds.....	43
Section 706. Power to Fix and Collect Rates, Fees and Charges .....	43
Section 707. Creation of Liens; Sale and Lease of Property .....	43
Section 708. Annual Budget .....	44
Section 709. Operation and Maintenance of System .....	44
Section 710. Rates, Fees and Charges .....	44
Section 711. Enforcement of Charges and Connections.....	45
Section 712. Maintenance of Insurance; Reconstruction; Application of Insurance Proceeds .....	45

## TABLE OF CONTENTS

(continued)

	<b>Page</b>
Section 713.	Accounts and Reports ..... 46
Section 714.	Payment of Taxes and Charges..... 47
Section 715.	No Diminution of Rights ..... 47
Section 716.	Governmental Reorganization ..... 47
Section 717.	Additional Utility Functions ..... 47
Section 718.	General..... 47
<b>ARTICLE VIII</b>	
EVENTS OF DEFAULT AND REMEDIES OF BONDHOLDERS ..... 48	
Section 801.	Events of Default ..... 48
Section 802.	Accounting and Examination of Records After Default..... 49
Section 803.	Application of Revenues and Other Moneys After Default..... 49
Section 804.	Appointment of Receiver..... 51
Section 805.	Proceedings Brought by Trustee..... 51
Section 806.	Restriction on Bondholder's Action ..... 52
Section 807.	Remedies Not Exclusive..... 53
Section 808.	Effect of Waiver and Other Circumstances ..... 53
Section 809.	Notice of Default..... 53
<b>ARTICLE IX</b>	
CONCERNING THE FIDUCIARIES ..... 53	
Section 901.	Trustee and Co-Trustee; Appointment and Acceptance of Duties ..... 53
Section 902.	Paying Agents; Appointment and Acceptance of Duties..... 53
Section 903.	Responsibilities of Fiduciaries..... 54
Section 904.	Evidence on Which Fiduciaries May Act ..... 54
Section 905.	Compensation ..... 55
Section 906.	Certain Permitted Acts..... 55
Section 907.	Resignation of Trustee or Co-Trustee..... 55
Section 908.	Removal of Trustee or Co-Trustee ..... 55
Section 909.	Appointment of Successor Trustee or Co-Trustee..... 55
Section 910.	Transfer of Rights and Property to Successor Trustee or Co-Trustee ..... 56
Section 911.	Merger or Consolidation..... 57
Section 912.	Adoption of Authentication ..... 57
Section 913.	Resignation or Removal of Paying Agent and Appointment of Successor..... 57
Section 914.	Bond Registrar ..... 57
<b>ARTICLE X</b>	
SUPPLEMENTAL RESOLUTIONS..... 58	
Section 1001.	Supplemental Resolutions Effective Upon Filing With the Trustee..... 58
Section 1002.	Supplemental Resolutions Effective Upon Consent of Trustee..... 59
Section 1003.	Supplemental Resolutions Effective With Consent of Bondholders ..... 59
Section 1004.	General Provisions..... 59

**TABLE OF CONTENTS**  
(continued)

**Page**

<b>ARTICLE XI</b>	
	<b>AMENDMENTS ..... 60</b>
Section 1101.	Mailing and Publication..... 60
Section 1102.	Powers of Amendment..... 60
Section 1103.	Consent of Bondholders..... 61
Section 1104.	Modifications or Amendments by Unanimous Consent..... 62
Section 1105.	Exclusion of Bonds..... 62
Section 1106.	Notation on Bonds ..... 62
<b>ARTICLE XII</b>	
	<b>MISCELLANEOUS ..... 62</b>
Section 1201.	Defeasance ..... 62
Section 1202.	Evidence of Signatures of Bondholders and Ownership of Bonds..... 66
Section 1203.	Moneys Held for Particular Bonds ..... 67
Section 1204.	Preservation and Inspection of Documents..... 67
Section 1205.	Parties Interested Herein ..... 67
Section 1206.	No Recourse on the Bonds..... 67
Section 1207.	Publication of Notice; Suspension of Publication ..... 67
Section 1208.	Action by Credit Enhancer When Action by Holders of the Bonds Required..... 67
Section 1209.	Severability of Invalid Provisions..... 68
Section 1210.	Holidays ..... 68
Section 1211.	Representations and Covenants Regarding the Pledge of the Resolution ..... 68
Section 1212.	Repeal of Inconsistent Resolutions..... 68
<b>ARTICLE XIII</b>	
	<b>EFFECTIVE DATE; DEBT SERVICE RESERVE ACCOUNT UNDER ORIGINAL RESOLUTION ..... 68</b>
Section 1301.	Effective Date ..... 68
Section 1302.	Debt Service Reserve Account under Original Resolution..... 68

**AMENDED AND RESTATED  
UTILITIES SYSTEM  
REVENUE BOND RESOLUTION**

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**WHEREAS**, on June 6, 1983, the City of Gainesville, Florida (“the City”) adopted a resolution entitled “Utilities System Revenue Bond Resolution” (such Resolution, as the same heretofore has been amended and supplemented and as it hereafter may be amended and supplemented, being referred to herein sometimes as the “Bond Resolution”) for the purpose of authorizing the issuance of Bonds (as defined in the Bond Resolution) from time to time to provide for the payment of Costs of Acquisition and Construction of the System (as such terms are defined in the Bond Resolution); and

**WHEREAS**, Section 1102 of the Bond Resolution provides that, except as otherwise provided therein, any modification or amendment of the Bond Resolution and of the rights and obligations of the City and of the holders of the Bonds thereunder, in any particular, may be made by a Supplemental Resolution (as defined in the Bond Resolution), with the written consent given as provided in Section 1103 of the Bond Resolution of the holders of not less than a majority in principal amount of the Bonds Outstanding (as defined in the Bond Resolution) at the time such consent is given; and

**WHEREAS**, the City desires to amend and restate the Bond Resolution in the manner set forth herein, which amendment and restatement the City hereby determines requires the written consent of the holders of not less than a majority in principal amount of the Bonds Outstanding as provided in said Section 1102 of the Bond Resolution;

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Gainesville, Florida that in the event that written consents to the amendment and restatement of the Bond Resolution as provided herein of the holders of not less than a majority in principal amount of the Bonds then Outstanding shall be filed with the Trustee (as defined in the Bond Resolution) in the manner provided in Section 1103 of the Bond Resolution, then on the date on which the conditions set forth in Section 1103 of the Bond Resolution with respect thereto shall be satisfied (the “Effective Date”), the Bond Resolution shall be amended and restated to read in its entirety as set forth herein.

**ARTICLE I**

**DEFINITIONS AND STATUTORY AUTHORITY**

**SECTION 101. Definitions.** The following terms shall, for all purposes of the Resolution, have the following meanings:

**Accountant’s Report** shall mean a report signed by an independent certified public accountant of recognized standing or a firm of independent certified public accountants of recognized standing (who may be the accountant or firm of accountants who regularly audit the books of the City) selected by the City.

**Accreted Value** shall mean, as of any date of computation with respect to any Capital Appreciation Bond, an amount equal to the principal amount of such Bond plus the interest accrued on such Bond from the date of original issuance of such Bond to the periodic date specified in the Supplemental Resolution authorizing such Capital Appreciation Bond on which interest on such Bond is

to be compounded (hereinafter in this definition, a “Periodic Compounding Date”) next preceding the date of computation or the date of computation if a Periodic Compounding Date, such interest to accrue at the interest rate per annum of the Capital Appreciation Bonds set forth in the Supplemental Resolution authorizing such Bonds, compounded periodically on each Periodic Compounding Date, plus, if such date of computation shall not be a Periodic Compounding Date, a portion of the difference between the Accreted Value as of the immediately preceding Periodic Compounding Date (or the date of original issuance if the date of computation is prior to the first Periodic Compounding Date succeeding the date of original issuance) and the Accreted Value as of the immediately succeeding Periodic Compounding Date, calculated based upon an assumption that, unless otherwise provided in the Supplemental Resolution authorizing such Capital Appreciation Bonds, Accreted Value accrues in equal daily amounts on the basis of a year of twelve 30-day months.

**Accrued Aggregate Debt Service** shall mean, as of any date of calculation, an amount equal to the sum of (a) the amounts of accrued Debt Service with respect to all Series of Bonds, calculating the accrued Debt Service with respect to each Series at an amount equal to the sum of (i) interest on the Bonds of such Series accrued and unpaid and to accrue to the end of the then current calendar month, and (ii) Principal Installments due and unpaid and that portion of the Principal Installments for such Series next due which would have accrued (if deemed to accrue in the manner set forth in the definition of Debt Service) to the end of such calendar month; provided, however, that (i) there shall be excluded from the calculation of Accrued Aggregate Debt Service any Principal Installments which are Refundable Principal Installments, (ii) the principal and interest portions of the Accreted Value of Capital Appreciation Bonds or the Appreciated Value of Deferred Income Bonds shall be included in the calculation of Accrued Aggregate Debt Service at the times and in the manner provided in subsection 1 of Section 208 and (iii) if the calculation of the Debt Service Reserve Requirement for any separate subaccount in the Debt Service Reserve Account in the Debt Service Fund takes into account Accrued Aggregate Debt Service, then, for purposes of such calculation, Accrued Aggregate Debt Service shall be calculated only with respect to the Bonds of the Series secured thereby and (b) the amounts of accrued Debt Service with respect to all Parity Hedging Contract Obligations.

**Act** shall mean the Charter of the City, being Chapter 90-394, Laws of Florida, 1990, as amended, and other applicable provisions of law which, together with the Resolution, authorizes the City to issue its Bonds.

**Additionally Secured Series** shall mean a Series of Bonds for which the payment of the principal or sinking fund Redemption Price, if any, of, and interest on, the Bonds of such Series shall be secured, in addition to the pledge created pursuant to subsection 1 of Section 501 hereof in favor of all of the Bonds, by amounts on deposit in a separate subaccount to be designated therefor in the Debt Service Reserve Account in the Debt Service Fund.

**Adjusted Aggregate Debt Service** for any period shall mean, as of any date of calculation, the Aggregate Debt Service for such period except that (a) if any Refundable Principal Installment for any Series of Bonds is included in Aggregate Debt Service for such period, Adjusted Aggregate Debt Service shall mean Aggregate Debt Service determined (i) in the case of Refundable Principal Installments other than Commercial Paper Notes and Medium-Term Notes, as if each such Refundable Principal Installment had been payable, over a period extending from the due date of such Principal Installment through the later of (x) the 30th anniversary of the issuance of such Series of Bonds or (y) the 10th anniversary of the due date of such Refundable Principal Installment, in installments which would have required equal annual payments of principal and interest over such period and (ii) in the case of Refundable Principal Installments relating to Commercial Paper Notes or Medium-Term Notes, in accordance with the then current Commercial Paper Payment Plan or Medium-Term Note Payment Plan, as applicable, with respect thereto and (b) the principal and interest portions of the Accreted Value of

Capital Appreciation Bonds or the Appreciated Value of Deferred Income Bonds shall be included in the calculation of Adjusted Aggregate Debt Service at the times and in the manner provided in subsection 1 of Section 208 hereof. Interest deemed payable in any Fiscal Year after the actual due date of any Refundable Principal Installment of any Series of Bonds shall be calculated at such rate of interest as the City, or a banking or financial institution selected by the City, determines would be a reasonable estimate of the rate of interest that would be borne on Bonds maturing at the times determined in accordance with the provisions of the preceding sentence.

**Aggregate Debt Service** for any period shall mean, as of any date of calculation, the sum of (a) the amounts of Debt Service for such period with respect to all Series of Bonds; provided, however, that (i) for purposes of estimating Aggregate Debt Service for any future period (X) any Variable Rate Bonds Outstanding during such period shall be assumed to bear interest during such period at the greater of (1) the actual rate of interest then borne by such Variable Rate Bonds or (2) the Certified Interest Rate applicable thereto and (Y) any Option Bonds Outstanding during such period shall be assumed to mature on the stated maturity date thereof and (ii) the principal and interest portions of the Accreted Value of Capital Appreciation Bonds or the Appreciated Value of Deferred Income Bonds shall be included in the calculation of Aggregate Debt Service at the times and in the manner provided in subsection 1 of Section 208; and provided, further, that if the calculation of the Debt Service Reserve Requirement for any separate subaccount in the Debt Service Reserve Account in the Debt Service Fund takes into account Aggregate Debt Service, then, for purposes of such calculation, Aggregate Debt Service shall be calculated only with respect to the Bonds of the Series secured thereby and (b) the amounts of Debt Service for such period with respect to all Parity Hedging Contract Obligations.

**Annual Budget** shall mean the annual budget of the System, as amended or supplemented, adopted or in effect for a particular Fiscal Year as provided in Section 708.

**Appreciated Value** shall mean with respect to any Deferred Income Bond, (i) as of any date of computation prior to the Current Interest Commencement Date therefor, an amount equal to the principal amount of such Bond plus the interest accrued on such Bond from the date of original issuance of such Bond to the periodic date specified in the Supplemental Resolution authorizing such Deferred Income Bond on which interest on such Bond is to be compounded (hereinafter in this definition, a "Periodic Compounding Date") next preceding the date of computation or the date of computation if a Periodic Compounding Date, such interest to accrue at the interest rate per annum of the Deferred Income Bonds set forth in the Supplemental Resolution authorizing such Bonds, compounded periodically on each Periodic Compounding Date, plus, if such date of computation shall not be a Periodic Compounding Date, a portion of the difference between the Appreciated Value as of the immediately preceding Periodic Compounding Date (or the date of original issuance if the date of computation is prior to the first Periodic Compounding Date succeeding the date of original issuance) and the Appreciated Value as of the immediately succeeding Periodic Compounding Date, calculated based upon an assumption that, unless otherwise provided in the Supplemental Resolution authorizing such Deferred Income Bond, Appreciated Value accrues in equal daily amounts on the basis of a year of twelve 30-day months and (ii) as of any date of computation on and after the Current Interest Commencement Date, the Appreciated Value on the Current Interest Commencement Date.

**Authorized Newspaper** shall mean a newspaper of general circulation in the Borough of Manhattan, City and State of New York or in the City of Gainesville, Florida (including, at such times as they are published, *The New York Times*, *The Daily Bond Buyer* or *The Wall Street Journal*) which is customarily published at least once a day for at least five days (other than legal holidays) in each calendar week, printed in the English language.



**Authorized Officer of the City** shall mean the Mayor, General Manager for Utilities, the Utility Finance Director, the Assistant General Manager for Customer and Administrative Services of the System or any other officer, employee or agent of the City authorized to perform specific acts or duties by resolution duly adopted by the City.

**Bond or Bonds** shall mean any bonds, notes or other evidences of indebtedness, as the case may be, authenticated and delivered under and Outstanding pursuant to the Resolution (including Parity Commercial Paper Notes, Parity Medium-Term Notes and Parity Reimbursement Obligations) but shall not mean Parity Hedging Contract Obligations or Subordinated Indebtedness.

**Bondholder or Holder of Bonds** shall mean any person who shall be the registered owner of any fully registered Bond or Bonds.

**Bond Registrar** shall mean the Trustee or any other institution qualified to act in the capacity of Bond Registrar as set forth in Section 703 appointed by the City to perform the duties of Bond Registrar enumerated in such Section.

**Book Entry Bond** shall mean a Bond authorized to be issued to, and issued to and, except as provided in paragraph 4 of Section 309, restricted to being registered in the name of, a Securities Depository for the participants in such Securities Depository or the beneficial owners of such Bond.

**Capital Appreciation Bonds** shall mean any Bonds issued under this Resolution as to which interest is (i) compounded periodically on dates specified in the Supplemental Resolution authorizing such Capital Appreciation Bonds and (ii) payable only at the maturity, earlier redemption or other payment thereof pursuant to this Resolution or the Supplemental Resolution authorizing such Bonds.

**Certified Interest Rate** shall mean, with respect to Commercial Paper Notes, Medium-Term Notes or the Variable Rate Bonds of a particular Series maturing on a particular date, the interest rate set forth in a certificate of an Authorized Officer of the City executed on or prior to the date of the initial issuance of such Commercial Paper Notes, Medium-Term Notes or Variable Rate Bonds of such Series, as the case may be, which interest rate shall be (i) in the case of Variable Rate Bonds, the rate of interest such Variable Rate Bonds would bear (based on the Bond Buyer Revenue Bond Index) if, assuming the same maturity date, terms and provisions (other than interest rate) as the proposed Variable Rate Bonds of such maturity, and on the basis of the City's credit ratings with respect to the Bonds (other than Bonds for which credit enhancement is provided by a third party), such proposed Variable Rate Bonds of such maturity were issued at a fixed interest rate or (ii) in the case of Commercial Paper Notes or Medium-Term Notes, the rate of interest such Commercial Paper Notes or Medium-Term Notes would bear (based on the Bond Buyer Revenue Bond Index) if such Notes were issued as Bonds bearing a fixed interest rate. If at such time of issuance of such Commercial Paper Notes, Medium-Term Notes or Variable Rate Bonds of a particular Series, the Bond Buyer Revenue Bond Index is no longer published, the City shall use a comparable published index accepted by the municipal bond market.

**City** shall mean the City of Gainesville, Florida.

**Commercial Paper Note** shall mean any Bond which (a) has a maturity date which is not more than 397 days after the date of issuance thereof and (b) is designated as a Commercial Paper Note in the Supplemental Resolution authorizing such Bond.

**Commercial Paper Payment Plan** shall mean, with respect to any Series of Commercial Paper Notes and as of any time, the then current Commercial Paper Payment Plan for such notes contained in a certificate of an Authorized Officer of the City delivered on or prior to the date of the first issuance of such Commercial Paper Notes and setting forth the sources of funds expected to be utilized by the City to pay the principal of and interest on such Commercial Paper Notes or any subsequent certificate of an Authorized Officer of the City thereafter executed to reflect changes, if any, in the expectations of the City with respect to the sources of funds to be utilized to pay principal of and interest on such Commercial Paper Notes; provided, however, that if any Commercial Paper Payment Plan provides for the refunding of any Commercial Paper Note with proceeds of (a) Bonds other than Commercial Paper Notes or Medium-Term Notes or (b) Subordinated Indebtedness, in either such case, that the City intends to pay from Revenues, the principal of such Commercial Paper Note shall, for purposes of the Commercial Paper Payment Plan, be assumed to come due over a period commencing with the due date of the Commercial Paper Note and ending not later than the later of (x) the 30th anniversary of the first issuance of Commercial Paper Notes of such Series or (y) the 10th anniversary of the due date of the Commercial Paper Note to be refunded, in installments such that the principal and interest payable on such Commercial Paper Note in each Fiscal Year in such period will be equal to the principal and interest payable on such Commercial Paper Note in each other Fiscal Year in such period.

**Commission** shall mean the City Commission of the City of Gainesville, Florida.

**Construction Fund** shall mean the Construction Fund established in Section 502.

**Consulting Engineer**, in respect of any particular utility system, shall mean the independent engineer(s) or firm(s) at the time employed by the City and having a favorable reputation for skill and experience in the appropriate field of engineering of utility systems of comparable size and character as those forming parts of the System.

**Cost of Acquisition and Construction** shall mean the City's costs, expenses and liabilities paid or incurred or to be paid or incurred by the City in connection with the planning, engineering, designing, acquiring, constructing, installing, financing, operating, maintaining, retiring, decommissioning and disposing of the System or any part thereof and the obtaining of all governmental approvals, certificates, permits and licenses with respect thereto, including, but not limited to, any good faith or other similar payment or deposits required in connection with the purchase of such part of the System, the cost of acquisition by or for the City of real and personal property or any interests therein, costs of physical construction of such part of the System and costs of the City incidental to such construction or acquisition, the cost of acquisition of fuel or fuel inventory or facilities for the production or transportation of fuel and working capital and reserves therefor and working capital and reserves for reload fuel and for additional fuel inventories, all costs relating to such part of the System, the cost of any indemnity or surety bonds and premiums on insurance, preliminary investigation and development costs, engineering fees and expenses, contractors' fees and expenses, the costs of labor, materials, equipment and utility services and supplies, legal and financial advisory fees and expenses, interest and financing costs, including, without limitation, bank commitment and letter of credit fees, bond insurance and indemnity premiums, discounts to the underwriters or other purchasers thereof, if any, amounts required to be paid under any interest rate exchanges or swaps, cash flow exchanges, options, caps, floors or collars, in each case made in connection with the issuance of Bonds, Subordinated Indebtedness or other evidences of indebtedness of the City relating to the System, payments under any Qualified Hedging Contract, fees and expenses of the Fiduciaries, administration and general overhead expense and costs of keeping accounts and making reports required by the Resolution prior to or in connection with the completion of construction of such part of the System, amounts, if any, required by the Resolution to be paid into the Debt Service Fund to provide, among other things, for interest accruing on Bonds and to provide for the Debt Service Reserve Requirement or to be paid into the Utilities Plant Improvement Fund

or for payments when due (whether at the maturity of principal or the due date of interest or upon redemption) on any indebtedness of the City, including notes and Subordinated Indebtedness, incurred in respect of any of the foregoing, amounts, if any, required by a Supplemental Resolution to be paid into the Rate Stabilization Fund, and amounts required for working capital for the System and reserves therefor, and all federal, state and local taxes and payments in lieu of taxes legally required to be paid in connection with any part of the System and shall include reimbursements to the City for any of the above items theretofore paid by or on behalf of the City. It is intended that this definition be broadly construed to encompass all costs, expenses and liabilities of the City related to the System which on the date of the Resolution or in the future shall be permitted to be funded with the proceeds of Bonds pursuant to the provisions of Florida law.

**Co-Trustee** shall mean, if any, the co-trustee appointed pursuant to Article IX, and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Resolution.

**Credit Obligation** shall mean any obligation of the City to make payments out of Revenues for property, services or commodities whether or not the same are made available, furnished or received.

**Credit Enhancement** shall mean, with respect to any Bonds of a Series, the issuance of an insurance policy, letter of credit, surety bond or any other similar obligation, whereby the issuer thereof becomes unconditionally obligated to pay when due, to the extent not paid by the City or otherwise, the principal of and interest on such Bonds.

**Credit Enhancer** shall mean, with respect to any Bonds, any person of entity which, pursuant to a Supplemental Resolution, is designated as a Credit Enhancer and which provides Credit Enhancement for such Bonds.

**Current Interest Commencement Date** shall mean, with respect to any particular Deferred Income Bonds, the date specified in the Supplemental Resolution authorizing such Bonds (which date must be prior to the maturity date for such Bonds) after which interest accruing on such Bonds shall be payable periodically on dates specified in such Supplemental Resolution, with the first such payment date being the first such periodic date immediately succeeding such Current Interest Commencement Date.

**Debt Service** for any period shall mean, as of any date of calculation (a) with respect to any Series of Bonds, an amount equal to the sum of (i) interest accruing during such period on Bonds of such Series, except to the extent that such interest is to be paid from deposits into the Debt Service Account in the Debt Service Fund made from the proceeds of Bonds, Subordinated Indebtedness or other evidences of indebtedness of the City (including amounts, if any, transferred thereto from the Construction Fund) and (ii) that portion of each Principal Installment for such Series which would accrue during such period if such Principal Installment were deemed to accrue daily in equal amounts from the next preceding Principal Installment due date for such Series (or, (x) in the case of Bonds other than Reimbursement Obligations, if (1) there shall be no such preceding Principal Installment due date or (2) such preceding Principal Installment due date is more than one year prior to the due date of such Principal Installment, then, from a date one year preceding the due date of such Principal Installment or from the date of issuance of the Bonds of such Series, whichever date is later, and (y) in the case of Reimbursement Obligations, in accordance with the terms thereof and the Supplemental Resolution authorizing such Reimbursement Obligations), except to the extent that such Principal Installment is paid or to be paid from the proceeds of Bonds, Subordinated Indebtedness or other evidences of indebtedness of the City and (b) with respect to each Parity Hedging Contract Obligation, an amount equal to the sum

of all amounts owed thereunder by the City during such period. Such interest and Principal Installments for such Series of Bonds shall be calculated on the assumption that (x) no Bonds (except for Option Bonds actually tendered for payment prior to the stated maturity thereof and paid, or to be paid, from Revenues) of such Series Outstanding at the date of calculation will cease to be Outstanding except by reason of the payment of each Principal Installment on the due date thereof, (y) the principal amount of Option Bonds tendered for payment before the stated maturity thereof and paid, or to be paid, from Revenues, shall be deemed to accrue on the date required to be paid pursuant to such tender and (z) the principal and interest portions of the Accreted Value of Capital Appreciation Bonds or the Appreciated Value of Deferred Income Bonds shall be included in the calculation of Debt Service at the times and in the manner provided in subsection 1 of Section 208; provided, however, that if the calculation of the Debt Service Reserve Requirement for any separate subaccount in the Debt Service Reserve Account in the Debt Service Fund takes into account Debt Service, then, for purposes of such calculation, Debt Service shall be calculated only with respect to the Bonds of the Series secured thereby. If the City has in connection with any such Bonds entered into a Qualified Hedging Contract which provides that, in respect of a notional amount equal to the Outstanding principal amount of such Bonds, the City is to pay to a Qualified Hedging Contract Provider an amount determined based upon a variable rate of interest and the Qualified Hedging Contract Provider is to pay to the City an amount determined based upon a fixed rate of interest equal to the rate or rates at which such Bonds bear interest, it will be assumed that such Bonds bear interest at the variable rate of interest to be paid by the City. If the City has in connection with any Variable Rate Bonds, Commercial Paper Notes or Medium-Term Notes entered into a Qualified Hedging Contract which provides that, in respect of a notional amount equal to the Outstanding principal amount of the Variable Rate Bonds, Commercial Paper Notes or Medium-Term Notes, the City is to pay to a Qualified Hedging Contract Provider an amount determined based upon a fixed rate of interest and the Qualified Hedging Contract Provider is to pay to the City an amount determined based upon a variable rate of interest equal or comparable to the rate at which such Variable Rate Bonds, Commercial Paper Notes or Medium-Term Notes bear interest, it will be assumed that such Variable Rate Bonds, Commercial Paper Notes or Medium-Term Notes bear interest at the fixed rate of interest to be paid by the City.

**Debt Service Fund** shall mean the Debt Service Fund established in Section 502.

**Debt Service Reserve Requirement** shall mean with respect to each subaccount, if any, in the Debt Service Reserve Account, the amount specified in the Supplemental Resolution pursuant to which such subaccount shall be established; provided, however, that if at any time the City at its option shall have established one or more Reserve Deposits in connection with the issuance of any Additionally Secured Series of Bonds, the Debt Service Reserve Requirement for such Additionally Secured Series of Bonds as of any date of calculation shall be reduced by an amount equal to the sum of all Reserve Deposits not due and payable in such current or future Fiscal Year to which the calculation relates. For purposes of the foregoing calculation, it shall be assumed that Variable Rate Bonds will bear interest during any period at the greater of (i) the actual rate of interest then borne by such Bonds or (ii) the Certified Interest Rate applicable thereto.

**Defaulted Interest** shall have the meaning given to such term in Section 308.

**Defeasance Securities** shall mean, unless otherwise provided with respect to the Bonds of a Series in the Supplemental Resolution authorizing such Bonds,

- (a) any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, and any certificates or any other evidences of an ownership interest in obligations or in specified portions thereof (which may consist of specified portions of the interest thereon) of the character described

in this clause (a), in any such case, which shall not be subject to redemption prior to their maturity other than at the option of the holder thereof or as to which an irrevocable notice of redemption of such securities on a specified redemption date has been given and such securities are not otherwise subject to redemption prior to such specified date other than at the option of the holder thereof,

(b) any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (A) which are (x) not callable prior to maturity or (y) as to which irrevocable instructions have been given to the trustee of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified in such instructions, (B) which are secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described in clause (a) hereof which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (C) as to which the principal of and interest on the bonds and obligations of the character described in clause (a) hereof which have been deposited in such fund along with any cash on deposit in such fund are sufficient to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (b) on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (A) of this clause (b), as appropriate, and any certificates or any other evidences of an ownership interest in obligations or specified portions thereof (which may consist of specified portions of the interest thereon) of the character described in this clause (b);

(c) obligations of any state of the United States of America or any political subdivision thereof or any agency or instrumentality of any state or political subdivision which are not callable for redemption prior to maturity, or which have been duly called for redemption by the obligor on a date or dates specified and as to which irrevocable instructions have been given to a trustee in respect of such obligations by the obligor to give due notice of such redemption on such date or dates, which date or dates shall also be specified in such instructions, and which shall be rated in the highest whole rating category by two nationally recognized rating agencies,

(d) bonds, notes, debentures or other evidences of indebtedness issued or guaranteed by any corporation which are, at the time of purchase, rated by a nationally recognized rating agency in its highest rating category, and by at least one other nationally recognized rating agency in either of its two highest rating categories, for comparable types of debt obligations so long as such securities evidence ownership of the right to payments of principal and/or interest on obligations described in clauses (a) and (b) hereof or obligations described in the foregoing clause (c), in any such case, which shall not be subject to redemption prior to their maturity other than at the option of the holder thereof or as to which an irrevocable notice of redemption of such obligations on a specified redemption date has been given and such obligations are not otherwise subject to redemption prior to such specified date other than at the option of the holder thereof,

(e) deposits in interest-bearing time deposits or certificates of deposit which shall not be subject to redemption or repayment prior to their maturity or due date other than at the option of the depositor or holder thereof or as to which an irrevocable notice of redemption or repayment of such time deposits or certificates of deposit on a specified redemption or repayment date has been given and such time deposits or certificates of deposit are not otherwise subject to redemption or repayment prior to such specified date other than at the option of the depositor or

holder thereof, and which are fully secured by obligations described in clause (a) or clause (b) hereof to the extent not insured by the Federal deposit Insurance Corporation, and

(f) upon compliance with the provisions of subsection 6 of Section 1201, such securities (I) as are described in clause (a) of this definition and (II) as are described in clause (d) hereof so long as such securities evidence ownership of the right to payments of principal and/or interest on obligations described in clause (a) hereof, in each case, which are subject to redemption prior to maturity at the option of the issuer thereof on a specified date or dates.

**Deferred Income Bonds** shall mean any Bonds issued under this Resolution as to which interest accruing prior to the Current Interest Commencement Date is (i) compounded periodically on dates specified in the Supplemental Resolution authorizing such Deferred Income Bonds and (ii) payable only at the maturity, earlier redemption or other payment thereof pursuant to this Resolution or the Supplemental Resolution authorizing such Bonds.

**Depository** shall mean any bank or trust company organized under the laws of any state of the United States or any national banking association selected by the City as a depository of moneys and securities held under the provisions of the Resolution, and may include the Trustee or the Co-Trustee.

**Event of Default** shall have the meaning given to such term in Section 801.

**Fiduciary or Fiduciaries** shall mean the Trustee, the Co-Trustee, the Bond Registrar, the Paying Agents, the Depositories, or any or all of them, as may be appropriate.

**Fiscal Year** shall mean the twelve month period established by the City from time to time as its fiscal year.

**Investment Securities** shall mean and include all securities, obligations or investments that, at the time, shall be permitted by Florida law for investment of the City's funds.

**Medium-Term Note** shall mean any Bond which (a) has a maturity date which is more than 365 days, but not more than 15 years, after the date of issuance thereof and (b) is designated as a Medium-Term Note in the Supplemental Resolution authorizing such Bond.

**Medium-Term Note Payment Plan** shall mean, with respect to any Series of Medium-Term Notes and as of any time, the then current Medium-Term Note Payment Plan for such notes contained in a certificate of an Authorized Officer of the City delivered on or prior to the date of the first issuance of such Medium-Term Notes and setting forth the sources of funds expected to be utilized by the City to pay the principal of and interest on such Medium-Term Notes or any subsequent certificate of an Authorized Officer of the City thereafter executed to reflect changes, if any, in the expectations of the City with respect to the sources of funds to be utilized to pay principal of and interest on such Medium-Term Notes; provided, however, that if any Medium-Term Note Payment Plan provides for the refunding of any Medium-Term Note with proceeds of (a) Bonds other than Commercial Paper Notes or Medium-Term Notes or (b) Subordinated Bonds, in either such case, that the City intends to pay from Revenues, the principal of such Medium-Term Note shall, for purposes of the Medium-Term Note Payment Plan, be assumed to come due over a period commencing with the due date of the Medium-Term Note and ending not later than the later of (x) the 30th anniversary of the first issuance of Medium-Term Notes of such Series or (y) the 10th anniversary of the due date of the Medium-Term Note to be refunded, in installments such that the principal and interest payable on such Medium-Term Note in each Fiscal Year

in such period will be equal to the principal and interest payable on such Medium-Term Note in each other Fiscal Year in such period.

**Net Revenues** for any period shall mean the Revenues during such period plus (x) the amounts, if any, paid from the Rate Stabilization Fund into the Revenue Fund during such period (excluding from (x), for the purpose of avoiding double counting, amounts already included in the Revenues for such period representing interest earnings transferred from the Rate Stabilization Fund to the Revenue Fund pursuant to Section 603) and minus (y) the sum of (a) Operation and Maintenance Expenses during such period and (b) the amounts, if any, paid from the Revenue Fund into the Rate Stabilization Fund during such period.

**Operation and Maintenance Expenses** shall mean all expenses incurred in connection with the operation and maintenance of the System including, without limiting the generality of the foregoing, all operating and maintenance expenses included in the Uniform System of Accounts exclusive of interest, depreciation and amortization charges. Operation and Maintenance Expenses shall include all Credit Obligations except as provided in Section 206 hereof.

**Opinion of Counsel** shall mean an opinion in writing signed by an attorney or firm of attorneys (who may be counsel to the City) selected by the City.

**Option Bonds** shall mean Bonds which by their terms may be tendered by and at the option of the Holder thereof for payment by the City prior to the stated maturity thereof, or the maturities of which may be extended by and at the option of the Holder thereof.

**Original Resolution** shall mean the Utilities System Revenue Bond Resolution adopted by the City on June 6, 1983, as amended and supplemented prior to the adoption of this Amended and Restated Utilities System Revenue Bond Resolution.

**Outstanding**, when used with reference to Bonds, shall mean, as of any date of calculation, Bonds theretofore or thereupon being authenticated and delivered under the Resolution except:

(i) Bonds (or portions of Bonds) cancelled by the Trustee at or prior to such date;

(ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys, equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or redemption date, shall be held in trust under the Resolution and set aside for such payment or redemption (whether at or prior to the maturity or redemption date), provided that if such Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given as provided in Article IV or in the Supplemental Resolution authorizing the Series of which such Bonds are a part or provision satisfactory to the Trustee shall have been made for the giving of such notice;

(iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to Article III or Section 406 or 1106 unless proof satisfactory to the Trustee is presented that any such Bonds are held by a bona fide purchaser in due course; and

(iv) Bonds (or portions thereof) deemed to have been paid as provided in paragraph 2 of Section 1201 or in the Supplemental Resolution authorizing the Series of which such Bonds are a part.

**Parity Commercial Paper Notes** shall have the meaning given to such term in paragraph 1 of Section 210.

**Parity Hedging Contract Obligation** shall have the meaning given to such term in Section 209. For purposes of Section 803 hereof, any Parity Hedging Contract Obligation shall specify, to the extent applicable, the interest and principal components of, or the scheduled payments corresponding to interest under, such Parity Hedging Contract Obligation.

**Parity Medium-Term Notes** shall have the meaning given to such term in paragraph 1 of Section 211.

**Parity Reimbursement Obligation** shall have the meaning given to such term in Section 207.

**Paying Agent** shall mean any bank or trust company organized under the laws of any state of the United States or any national banking association designated as paying agent for the Bonds of any Series, and its successor or successors hereafter appointed in the manner provided in the Resolution.

**Principal Installment** shall mean, as of any date of calculation and with respect to any Series, so long as any Bonds thereof are Outstanding, (i) the principal amount of Bonds (including the principal amount of any Option Bonds tendered for payment prior to the stated maturity thereof) of such Series due (or so tendered for payment) on a certain future date for which no Sinking Fund Installments have been established, or (ii) the unsatisfied balance (determined as provided in Section 511) of any Sinking Fund Installments due on a certain future date for Bonds of such Series, plus the amount of the sinking fund redemption premiums, if any, which would be applicable upon redemption of such Bonds on such future date in a principal amount equal to said unsatisfied balance of such Sinking Fund Installments, or (iii) if such future dates coincide as to different Bonds of such Series, the sum of such principal amount of Bonds and of such unsatisfied balance of Sinking Fund Installments due on such future date plus such applicable redemption premiums, if any.

**Prior Bonds** shall mean the Bonds Outstanding under the Original Resolution as of the Effective Date.

**Prudent Utility Practice** shall mean, in respect of any particular utility industry, any of the practices, methods and acts which, in the exercise of reasonable judgment, in the light of the facts, including but not limited to the practices, methods and acts engaged in or approved by a significant portion of such utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. It is recognized that Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is a spectrum of possible practices, methods or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition.

**Qualified Hedging Contract** shall mean, to the extent from time to time permitted by law, any financial arrangement (i) which is entered into by the City with an entity that is a Qualified Hedging Contract Provider at the time the arrangement is entered into, (ii) which is a cap, floor or collar; an interest rate swap, including a forward rate or future rate swap; asset, index, price or market-linked-transaction or agreement; other exchange or rate protection transaction agreement; agreement for the future delivery or price management of fuel or other commodities; other similar transaction (however designated); or any combination thereof; or any option with respect thereto, executed by the City for the purpose of moderating interest rate or commodity price fluctuations or



otherwise, and (iii) which has been designated in writing to the Trustee by an Authorized Officer of the City as a Qualified Hedging Contract (which writing shall specify, in the case of a Qualified Hedging Contract that is entered into in connection with any Bonds, the Bonds with respect to which such Qualified Hedging Contract is entered into).

**Qualified Hedging Contract Provider** shall mean an entity whose senior unsecured long-term debt obligations, financial program rating, counterparty rating or claims paying ability is rated, or whose payment obligations under a financial arrangement of the type referred in clause (ii) of the definition of Qualified Hedging Contract are guaranteed or insured by an entity whose senior unsecured long-term obligations, financial program rating, counterparty rating or claims paying ability is rated, on the date a Qualified Hedging Contract is entered into, either (i) at least as high as the third highest Rating Category of each Rating Agency then maintaining a rating for the Qualified Hedging Contract Provider, but in no event lower than any Rating Category designated by each such Rating Agency for the Bonds, or (ii) at any such lower Rating Categories which each such Rating Agency indicates in writing to the City and the Trustee will not, by itself, result in a reduction or withdrawal of its rating on the Outstanding Bonds that is in effect prior to entering into such Qualified Hedging Contract and which is an authorized counterparty pursuant to the City's investment policy as from time to time approved by the City.

**Rate Stabilization Fund** shall mean the Rate Stabilization Fund established in Section 502.

**Rating Agency** shall mean each nationally recognized securities rating agency then maintaining a rating on the Bonds at the request of the City.

**Rating Category** shall mean one of the generic rating categories of any Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise; provided, however, that for purposes hereof any requirement that an obligation be rated in the highest short-term Rating Category shall be deemed to be satisfied if such obligation is rated A-1 or better by Standard & Poor's, VMIG-1 or better by Moody's Investors Service, Inc. or F-1 or better by Fitch Ratings.

**Redemption Price** shall mean, with respect to any Bond, the principal amount thereof plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or the Resolution.

**Refundable Principal Installment** shall mean any Principal Installment for any Series of Bonds, including Variable Rate Bonds, any Commercial Paper Notes or any Medium-Term Notes, which the City intends to pay with moneys which are not Revenues, provided that (i) in the case of Bonds other than Commercial Paper Notes or Medium-Term Notes, such intent shall have been expressed in the Supplemental Resolution authorizing such Series of Bonds, (ii) in the case of Commercial Paper Notes, such intent shall be expressed in the then current Commercial Paper Payment Plan for such Commercial Paper Notes and (iii) in the case of Medium-Term Notes, such intent shall be expressed in the then current Medium-Term Note Payment Plan for such Medium-Term Notes; and provided, further, that any such Principal Installment, other than Principal Installments for Commercial Paper Notes and Medium-Term Notes, shall be a Refundable Principal Installment only through the penultimate day of the month preceding the month in which such Principal Installment comes due or such earlier time as the City no longer intends to pay such Principal Installment with moneys which are not Revenues and with respect to Bonds that are Commercial Paper Notes or Medium-Term Notes, any Commercial Paper Note or Medium-Term Note shall cease to be a Refundable Principal Installment at such time, if any, as shall be provided in the Commercial Paper Payment Plan or Medium-Term Note Payment Plan, as the case may be, applicable thereto.

**Refunding Bonds** shall mean all Bonds, whether issued in one or more Series, authenticated and delivered on original issuance pursuant to Section 204, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 406 or Section 1106.

**Regular Record Date** shall have the meaning given to such term in Section 308.

**Reimbursement Obligations** shall mean all Bonds issued pursuant to Section 207 and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 406 or Section 1106 and the Supplemental Resolution authorizing such Reimbursement Obligations.

**Reserve Deposit**, in respect of the Bonds of any Additionally Secured Series, shall mean an amount which shall be deposited monthly into the subaccount in the Debt Service Reserve Account in the Debt Service Fund established with respect to the Bonds of such Additionally Secured Series equal to the product of a fraction, the numerator of which shall be one and the denominator of which shall equal the number of months (which shall be not greater than sixty (60) months), designated by the City in the Supplemental Resolution authorizing the issuance of the Bonds of such Additionally Secured Series, in which the Reserve Deposit for the Bonds of such Additionally Secured Series is to be paid, times the excess (if any) of the Debt Service Reserve Requirement on such date on all Additionally Secured Series of Bonds secured by such subaccount Outstanding including such Additionally Secured Series of Bonds, over the Debt Service Reserve Requirement on all Additionally Secured Series of Bonds secured by such subaccount excluding such Additionally Secured Series of Bonds, such excess to be reduced by (i) the amount, if any, by which the amount on deposit in the separate subaccount in the Debt Service Reserve Account on the date of issuance of such Series of Bonds exceeds the Debt Service Reserve Requirement on all Additionally Secured Series of Bonds secured by such subaccount excluding such Additionally Secured Series of Bonds being issued, and (ii) the amount of proceeds of the Bonds of such Additionally Secured Series being issued or other funds, if any, deposited in such subaccount in the Debt Service Reserve Account on the date of issuance of the Additionally Secured Series of Bonds being issued; provided, however, that the Reserve Deposit may be reduced whenever any additional deposit allocable to the Reserve Deposits for such Additionally Secured Series is made into the separate subaccount in the Debt Service Reserve Account.

**Resolution** shall mean this Amended and Restated Utilities System Revenue Bond Resolution as from time to time amended or supplemented by Supplemental Resolutions in accordance with the terms hereof.

**Revenue Fund** shall mean the Revenue Fund established in Section 502.

**Revenues** shall mean, to the extent accrued to or received by the System or any board or agency in control of the management and operation of the System, (i) all rates, fees, rentals, other charges, and other income properly allocable to the System, resulting from the ownership and operation of the System, excluding customer deposits and any other deposits subject to refund until such deposits have become the property of the City, (ii) the proceeds of any insurance covering business interruption loss relating to the System, and (iii) interest earned on any moneys or securities held pursuant to the Resolution and paid or to be paid into the Revenue Fund.

**Securities Depository** shall mean, with respect to a Book Entry Bond, the person, firm, association or corporation specified in the Supplemental Resolution authorizing the Bonds of the Series of which such Book Entry Bond is a part to serve as the securities depository for such Book Entry Bond, or

its nominee, and its successor or successors and any other person, firm, association or corporation which may at any time be substituted in its place pursuant to the Resolution or such Supplemental Resolution.

**Series** shall mean all of the Bonds authenticated and delivered on original issuance and identified pursuant to this Resolution or the Supplemental Resolution authorizing such Bonds as a separate Series of Bonds, or any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 406 or Section 1106, regardless of variations in maturity, interest rate, Sinking Fund Installments, or other provisions.

**Sinking Fund Installment** shall mean an amount so designated which is established pursuant to the Supplemental Resolution authorizing the Series of Bonds to which such Sinking Fund Installment relates.

**Special Record Date** shall have the meaning given to such term in Section 308.

**Subordinated Commercial Paper Notes** shall have the meaning given to such term in paragraph 1 of Section 210.

**Subordinated Hedging Contract Obligation** shall have the meaning given to such term in Section 209.

**Subordinated Indebtedness** shall mean an evidence of indebtedness referred to in, and complying with the provisions of, Section 512, and shall include Subordinated Commercial Paper Notes, Subordinated Hedging Contract Obligations, Subordinated Medium-Term Notes and Subordinated Reimbursement Obligations.

**Subordinated Indebtedness Fund** shall mean the Subordinated Indebtedness Fund established in Section 502.

**Subordinated Medium-Term Notes** shall have the meaning given to such term in paragraph 1 of Section 211.

**Subordinated Reimbursement Obligation** shall have the meaning given to such term in Section 207.

**Supplemental Resolution** shall mean any resolution supplemental to or amendatory of the Resolution, adopted by the City in accordance with Article X.

**System** shall mean the entire combined and consolidated electric system, water system, wastewater system, natural gas system and telecommunications system of the City, now existing and hereafter acquired by lease, contract, purchase or otherwise or constructed by the City, including any interest or participation of the City in any facilities in connection with said system, together with all additions, betterments, extensions and improvements to said system or any part thereof hereafter constructed or acquired and together with all lands, easements, licenses and rights of way of the City and all other works, property or structures of the City and contract rights and other tangible and intangible assets of the City now or hereafter owned or used in connection with or related to said System; provided, however, that upon compliance with the provisions of Section 717, the term System shall be deemed to include other utility functions added to the System such as the production, distribution and sale of process steam, the providing of cable television services or other utility functions that are, in accordance with Prudent Utility Practice, reasonably related to the services provided by the System. Notwithstanding the foregoing definition of the term System, such term shall not include any properties or interests in

properties of the City which the City determines shall not constitute a part of the System for the purpose of the Resolution.

**Trust Estate** shall mean (i) the proceeds of the sale of the Bonds, (ii) the Revenues and (iii) all Funds established by the Resolution (other than the Debt Service Reserve Account in the Debt Service Reserve Fund and any fund which may be established pursuant to paragraph 2 of Section 502 hereof), including the investments and income, if any, thereof.

**Trustee** shall mean the trustee appointed pursuant to Article IX, and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Resolution.

**Uniform System of Accounts** shall mean, as to the electric utility portion of the System, that system of accounting principles at the time prescribed by the Federal Energy Regulatory Commission, or its successor for such purpose, for Class A and B electric utilities; and as to the other utility portions of the System, shall mean those same principles as appropriately modified for such utilities.

**Utilities Plant Improvement Fund** shall mean the Utilities Plant Improvement Fund established in Section 502.

**Variable Rate Bond** shall mean any Bond not bearing interest throughout its term at a specified rate or specified rates determined at the time of issuance of the Series of Bonds of which such Bond is one.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, districts, agencies and bodies.

All references in the Resolution to Articles, Sections, and other subdivisions are to the corresponding Articles, Sections or subdivisions of the Resolution, and the words herein, hereof, hereunder and other words of similar import refer to the Resolution as a whole and not to any particular Article, Section or subdivision of the Resolution. The headings or titles of the several articles and sections of the Resolution, and any Table of Contents appended to copies of the Resolution, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of the Resolution.

**SECTION 102. Authority for this Resolution.** This Amended and Restated Utilities System Revenue Bond Resolution is supplemental to the Original Resolution, and constitutes a “Supplemental Resolution” within the meaning of the Original Resolution.

**SECTION 103. Resolution to Constitute Contract.** In consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, the Resolution shall be deemed to be and shall constitute a contract between the City and the Holders from time to time of the Bonds; and the security interest granted and the pledge and assignment made in the Resolution and the covenants and agreements therein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the Holders of any and all of the Bonds, all of which, regardless of the time or times of their authentication and delivery or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided in or permitted by this Resolution.

## ARTICLE II

### AUTHORIZATION AND ISSUANCE OF BONDS

**SECTION 201. Authorization of Bonds.** 1. The Resolution authorizes Bonds of the City to be designated as “Utilities System Revenue Bonds”. The aggregate principal amount of the Bonds which may be executed, authenticated and delivered under the Resolution is not limited except as may hereafter be provided in the Resolution or in any Supplemental Resolution or as may be limited by law.

2. The Bonds may, if and when authorized by the City pursuant to one or more Supplemental Resolutions, be issued in one or more Series, and the designation thereof, in addition to the name “Utilities System Revenue Bonds”, shall include such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series as the City may determine. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

3. Nothing in the Resolution shall be deemed to preclude or restrict the consolidation into a single Series for purposes of issuance and sale of Bonds otherwise permitted by the Resolution to be issued at the same time in two or more separate Series, provided that solely for the purpose of satisfying the requirements of Section 202, Section 203 or Section 204, as the case may be, the Bonds otherwise permitted by the Resolution to be issued as a separate Series shall be considered separately as if such Bonds were to be issued as a separate Series. In the event that separate Series are combined for purposes of issuance and sale, they may be issued under a single Supplemental Resolution notwithstanding any other provision of the Resolution.

**SECTION 202. General Provisions for Issuance of Bonds.** 1. Except in the case of Parity Reimbursement Obligations, Parity Commercial Paper Notes and Parity Medium-Term Notes (the issuance of which shall be governed by the provisions of Sections 207, 210 and 211, respectively), all (but not less than all) the Bonds of each Series shall be executed by the City for issuance under the Resolution and delivered to the Trustee and thereupon shall be authenticated by the Trustee and by it delivered to the City or upon its order, but only upon the receipt by the Trustee (with copies of all documents to the Co-Trustee, if any) of:

(1) An Opinion of Counsel of recognized standing in the field of law relating to municipal bonds to the effect that (i) the City has the right and power under the Act as amended to the date of such Opinion to adopt the Resolution, and the Resolution has been duly and lawfully adopted by the City, is in full force and effect and is valid and binding upon the City in accordance with its terms, and no other authorization for the Resolution is required; (ii) the Resolution creates the valid pledge which it purports to create of, the Trust Estate and, if such Series of Bonds shall be an Additionally Secured Series, the separate subaccount in the Debt Service Reserve Account in the Debt Service Fund established for the benefit of such Bonds, subject to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution; and (iii) the Bonds of such Series are valid and binding obligations of the City as provided in the Resolution and entitled to the benefits of the Resolution and of the Act as amended to the date of such Opinion, and such Bonds have been duly and validly authorized and issued in accordance with law, including the Act as amended to the date of such Opinion, and in accordance with the Resolution. Such opinion may take exception for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors’ rights generally and may state that no opinion is being rendered as to the availability of any particular remedy. No opinion need be expressed as to the priority of the pledge and assignment created by the Resolution over the rights of other

persons in the Trust Estate and, if applicable, such separate subaccount in the Debt Service Reserve Account in the Debt Service Fund;

(2) A written order as to the delivery of such Bonds, signed by an Authorized Officer of the City;

(3) A copy of the Supplemental Resolution authorizing such Bonds, certified by an Authorized Officer of the City, which shall specify such terms and conditions relative to the Bonds of such Series, and such other matters relative thereto, as the City may determine;

(4) The amount, if any, required by the Supplemental Resolution to be deposited in the Debt Service Account in the Debt Service Fund for the payment of interest on Bonds and, if such Series shall be an Additionally Secured Series, the amount, if any, necessary for deposit in the separate subaccount in the Debt Service Reserve Account in the Debt Service Fund designated therefor so that the amount on deposit in such subaccount shall equal the Debt Service Reserve Requirement related thereto calculated immediately after the authentication and delivery of such Series of Additional Obligations; provided, however, that a Supplemental Resolution establishing a separate subaccount in the Debt Service Reserve Account in the Debt Service Fund may provide that, in lieu of maintaining all or a portion of the moneys or investments required to be maintained in such separate subaccount in the Debt Service Reserve Account in the Debt Service Fund, there may be credited to said subaccount at any time an irrevocable surety bond, an insurance policy, a letter of credit or any other similar obligation, or any combination thereof, of the type specified therein, or such amount may be deposited thereafter from Revenues or otherwise, in such manner as may be specified therein;

(5) The amount, if any, required by the Supplemental Resolution to be deposited in the Rate Stabilization Fund;

(6) Except in the case of any Series of Refunding Bonds, a certificate of an Authorized Officer of the City stating that either (a) no Event of Default has occurred and is continuing under the Resolution or (b) the application of the proceeds of sale of such Series of Bonds as required by the Supplemental Resolution will cure any such Event of Default;

(7) All amounts not deposited in other Funds under the Resolution for deposit in the Construction Fund;

(8) Except in the case of any Series of Refunding Bonds, the City shall have filed with the Trustee a certificate of an Authorized Officer stating (i) that the Net Revenues of the System in any twelve consecutive months out of the most recent eighteen months preceding the sale of Bonds, as determined from the financial statements of the System, were not less than one hundred twenty-five percent (125%) of the Aggregate Debt Service over such twelve month period in respect of the then Outstanding Bonds;

(9) Except in the case of any Series of Refunding Bonds, a certificate of an Authorized Officer of the City stating that the Net Revenues for each of the full Fiscal Years in the period specified in the next sentence, as such Net Revenues are estimated by the City in accordance with Section 205 hereof, shall be at least equal to 1.40 times the Adjusted Aggregate Debt Service for each such Fiscal Year, as estimated by the City in accordance with Section 205 hereof. The period to be covered by such certificate shall be the period beginning with the Fiscal Year in which the Series of Bonds is authenticated and delivered and ending with the later of (a) the fifth full Fiscal Year after such date of authentication and delivery or (b) the first full

Fiscal Year in which less than 10% of the interest coming due on Bonds estimated by the City to be Outstanding is to be paid from deposits made from Bond proceeds in the Debt Service Account in the Debt Service Fund (including amounts, if any, to be transferred thereto from the Construction Fund);

(10) In the case of each Series of Bonds any portion of the proceeds of which is to be deposited in the Debt Service Account in the Debt Service Fund, a certificate of an Authorized Officer of the City setting forth the then estimated application of such proceeds so deposited for the payment of interest on any particular Series of Bonds, whether or not such Series of Bonds is then Outstanding, or then being issued, or to be issued thereafter; and

(11) Such further documents, moneys and securities as are required by the provisions of Section 204 or Article X or any Supplemental Resolution adopted pursuant to Article X.

2. All the Bonds of each Series of like maturity shall be identical in all respects, except as to interest rate, denominations, numbers and letters. After the original issuance of Bonds of any Series other than Parity Reimbursement Obligations, Parity Commercial Paper Notes and Parity Medium-Term Notes, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III or Section 406 or Section 1106.

**SECTION 203. Bonds Other than Refunding Bonds, Parity Commercial Paper Notes, Parity Medium-Term Notes and Parity Reimbursement Obligations.** 1. One or more Series of Bonds may be issued at any time for the purpose of paying all or a portion of the Cost of Acquisition and Construction of the System. Bonds of each such Series shall be authenticated and delivered by the Trustee only upon compliance with the terms and conditions set forth in Section 202.

2. Proceeds, including accrued interest, of each Series of Bonds authorized under this Section 203 shall be applied simultaneously with the delivery of such Bonds as shall be provided in the Supplemental Resolution authorizing such Series.

**SECTION 204. Refunding Bonds.** 1. One or more Series of Refunding Bonds may be issued at any time to refund any Outstanding Bonds. Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding and to make the deposits in the Funds and Accounts under the Resolution required by the provisions of the Supplemental Resolution authorizing such Bonds.

2. Refunding Bonds of each Series shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (with copies of all documents to the Co-Trustee, if any), in addition to the documents required by Section 202, of:

(a) Instructions to the Trustee, satisfactory to it, to give due notice of redemption, if applicable, of all the Bonds to be refunded on a redemption date or dates specified in such instructions;

(b) If the Bonds to be refunded are not by their terms subject to redemption or paid at maturity within the next succeeding 60 days, instructions to the Trustee, satisfactory to it, to give due notice of defeasance in the manner provided for in Section 1201 of the Resolution or the Supplemental Resolution authorizing the Bonds of the Series being refunded; and

(c) Either (i) moneys (including moneys withdrawn and deposited pursuant to paragraph 4 of Section 507 and paragraph 5 of Section 508) in an amount sufficient to effect

payment at the applicable Redemption Price of the Bonds to be redeemed and at the principal amount of the Bonds to be paid at maturity together with accrued interest on such Bonds to the redemption date or maturity date, as applicable, which moneys shall be held by the Trustee or any one or more of the Paying Agents in a separate account irrevocably in trust for and assigned to the respective Holders of the Bonds to be refunded, or (ii) Defeasance Securities in such principal amounts, of such maturities, bearing such interest, and otherwise having such terms and qualifications and any moneys, as shall be necessary to comply (x) with the provisions of paragraph 3 of Section 1201, which Defeasance Securities and moneys shall be held in trust and used only as provided in said paragraph 3 or (y) the provisions relating to defeasance of the Bonds being refunded set forth in the Supplemental Resolution authorizing the Bonds of the Series being refunded, as applicable, which Defeasance Securities and moneys shall be held in trust and used only as provided in said provisions.

3. The proceeds, including accrued interest, of the Refunding Bonds of each Series shall be applied simultaneously with the delivery of such Bonds for the purposes of making deposits in such Funds and Accounts under the Resolution as shall be provided by the Supplemental Resolution authorizing such Series of Refunding Bonds and shall be applied to the refunding purposes thereof in the manner provided in said Supplemental Resolution.

**SECTION 205. Estimates by the City.** 1. In estimating Net Revenues for each of the Fiscal Years covered by any certificate required to be delivered by it pursuant to clause (9) of paragraph 1 of Section 202 hereof or Section 206 hereof, the City may base its estimate upon such factors as it shall consider reasonable.

2. In estimating the Adjusted Aggregate Debt Service for each of the Fiscal Years covered by any certificate required to be delivered by it pursuant to clause (9) of paragraph 1 of Section 202 hereof or Section 206 hereof, the City shall include the Adjusted Aggregate Debt Service on all Bonds estimated to be Outstanding during each such Fiscal Year. With respect to (a) any Bonds which are not Outstanding on the date such certificate is delivered but which are projected to be issued during the period covered by such certificate, and (b) any Variable Rate Bonds Outstanding on the date such certificate is delivered, the City shall estimate the Debt Service on such Bonds upon such assumptions as the City shall consider reasonable and set forth in such certificate, including assumptions with respect to the interest rate or rates to be borne by such Bonds and the amounts and due dates of the Principal Installments for such Bonds; provided, however, that the interest rate or rates assumed to be borne by any Variable Rate Bonds shall not be less than the interest rate borne by such Variable Rate Bonds at the time that the Authorized Officer of the City delivers such certificate.

**SECTION 206. Credit Obligations.** Payments owed by the City with respect to any Credit Obligation shall constitute Operation and Maintenance Expenses only if at the time the City enters into the contract relating to such Credit Obligation the City shall file with the Trustee a certificate of an Authorized Officer of the City stating that, assuming such payments are made as Operation and Maintenance Expenses from the Revenue Fund, the Net Revenues for each of the full Fiscal Years in the period specified in the next sentence, as such Net Revenues are estimated by the City in accordance with Section 205 hereof, shall be at least equal to 1.25 times the Aggregate Debt Service for each such Fiscal Year, as estimated by the City in accordance with Section 205 hereof. The period to be covered by such certificate shall be the period beginning with the Fiscal year in which the contract relating to the Credit Obligation becomes effective and ending with the later of (a) the fifth full Fiscal Year after such effective date or (b) the first full Fiscal Year in which less than 10% of the interest coming due on Bonds estimated by the City to be Outstanding is to be paid from deposits made from Bond proceeds in the Debt Service Account in the Debt Service Fund (including amounts, if any, to be transferred thereto from the Construction Fund).



**SECTION 207. Reimbursement Obligations.** One or more Series of Reimbursement Obligations may be issued concurrently with the issuance of the Bonds of a Series authorized pursuant to the provisions of Section 203 or 204 hereof for which Credit Enhancement or liquidity support is being provided with respect to such Bonds (or a maturity or maturities or interest rate within a maturity thereof) by a third-party. Such Reimbursement Obligations shall be issued for the purpose of evidencing the City's obligation to repay any advances or loans made to, or on behalf of, the City in connection with such Credit Enhancement or liquidity support; provided, however, that the stated maximum principal amount of any such Series of Reimbursement Obligations shall not exceed the aggregate principal amount of the Bonds with respect to which such Credit Enhancement or liquidity support is being provided, and such number of days' interest thereon as the City shall determine prior to the issuance thereof, but not in excess of 366 days' interest thereon, computed at the maximum interest rate applicable thereto; and provided, further, that principal amortization requirements shall be equal to the amortization requirements of the related Bonds, without acceleration. Any Reimbursement Obligation, which may include interest calculated at a rate higher than the interest rate on the related Bonds, may be secured by a pledge and assignment of the Trust Estate on a parity with the pledge and assignment created by paragraph 1 of Section 501 to secure the Bonds (a "Parity Reimbursement Obligation"), but only to the extent principal amortization requirements with respect to such reimbursement are equal to the amortization requirements for such related Bonds, without acceleration, or may be secured by a pledge and assignment of the Subordinated Indebtedness Fund which pledge and assignment shall be subordinate in all respects to the pledge of the Trust Estate created by the Resolution in favor of the Bonds and Parity Hedging Contract Obligations but on a parity with the pledge and lien securing Subordinated Indebtedness (a "Subordinated Reimbursement Obligation"), as determined by the City. Parity Reimbursement Obligations shall not include any payments of any fees, expenses, indemnification or other obligations to any provider of Credit Enhancement, or any payments pursuant to term-loan or other principal amortization requirements in reimbursement of any such advance that are more accelerated than the amortization requirements on such related Bonds, which payments shall be Subordinated Reimbursement Obligations.

**SECTION 208. Special Provisions Relating to Capital Appreciation Bonds, Deferred Income Bonds and Parity Reimbursement Obligations.** 1. The principal and interest portions of the Accreted Value of Capital Appreciation Bonds or the Appreciated Value of Deferred Income Bonds becoming due at maturity or by virtue of a Sinking Fund Installment shall be included in the calculations of accrued and unpaid and accruing interest or Principal Installments made under the definitions of Debt Service, Accrued Aggregate Debt Service, Adjusted Aggregate Debt Service and Aggregate Debt Service only from and after the date (the "Calculation Date") which is one year prior to the date on which such Accreted Value or Appreciated Value, as the case may be, becomes so due, and the principal and interest portions of such Accreted Value or Appreciated Value shall be deemed to accrue in equal daily installments from the Calculation Date to such due date.

2. For the purposes of (i) receiving payment of the Redemption Price if a Capital Appreciation Bond is redeemed prior to maturity, or (ii) receiving payment of a Capital Appreciation Bond if the principal of all Bonds is declared immediately due and payable following an Event of Default, as provided in Section 801 of the Resolution or (iii) computing the principal amount of Bonds held by the Holder of a Capital Appreciation Bond in giving to the City or the Trustee any notice, consent, request, or demand pursuant to the Resolution for any purpose whatsoever, the principal amount of a Capital Appreciation Bond shall be deemed to be its then current Accreted Value.

3. For the purposes of (i) receiving payment of the Redemption Price if a Deferred Income Bond is redeemed prior to maturity, or (ii) receiving payment of a Deferred Income Bond if the principal of all Bonds is declared immediately due and payable following an Event of Default, as provided in Section 801 of the Resolution or (iii) computing the principal amount of Bonds held by the

Holder of a Deferred Income Bond in giving to the City or the Trustee any notice, consent, request, or demand pursuant to the Resolution for any purpose whatsoever, the principal amount of a Deferred Income Bond shall be deemed to be its then current Appreciated Value.

4. Except as otherwise provided in a Supplemental Resolution authorizing a Series of Parity Reimbursement Obligations, for the purposes of (i) receiving payment of a Parity Reimbursement Obligation, whether at maturity, upon redemption or if the principal of all Bonds is declared immediately due and payable following an Event of Default, as provided in Section 801 of the Resolution or (ii) computing the principal amount of Bonds held by the Holder of a Parity Reimbursement Obligation in giving to the City or the Trustee any notice, consent, request, or demand pursuant to the Resolution for any purpose whatsoever, the principal amount of a Parity Reimbursement Obligation shall be deemed to be the actual principal amount that the City shall owe thereon, which shall equal the aggregate of the amounts advanced to, or on behalf of, the City in connection with the Bonds of the Series or maturity or interest rate within a maturity for which such Parity Reimbursement Obligation has been issued to evidence the City's obligation to repay any advances or loans made in respect of the Credit Enhancement or liquidity support provided for such Bonds, less any prior repayments thereof.

**SECTION 209. Provisions Concerning Qualified Hedging Contracts.** The City may, to the extent from time to time permitted pursuant to law, enter into Qualified Hedging Contracts. The City's obligation to pay any amount under any Qualified Hedging Contract may be secured by a pledge and assignment of the Trust Estate on a parity with the pledge and assignment created by paragraph 1 of Section 501 to secure the Bonds (a "Parity Hedging Contract Obligation"), or may be secured by a pledge and assignment of the Subordinated Indebtedness Fund which pledge and assignment shall be subordinate in all respects to the pledge of the Trust Estate created by the Resolution in favor of the Bonds but on a parity with the pledge and assignment securing Subordinated Indebtedness (a "Subordinated Hedging Contract Obligation"), as determined by the City. Notwithstanding the foregoing, Parity Hedging Contract Obligations shall not include any payments of any termination payments owed to a counterparty to a Qualified Hedging Contract, which payments shall be Subordinated Hedging Contract Obligations.

**SECTION 210. Commercial Paper Notes.** 1. Commercial Paper Notes may be issued from time to time in Series secured by a pledge and assignment of the Trust Estate on a parity with the pledge and assignment created by paragraph 1 of Section 501 to secure the Bonds ("Parity Commercial Paper Notes"). Commercial Paper Notes may also be issued from time to time in series secured by a pledge and assignment of the Subordinated Indebtedness Fund which pledge shall be subordinate in all respects to the pledge of the Trust Estate created by the Resolution in favor of the Bonds but on a parity with the pledge and lien securing Subordinated Indebtedness ("Subordinated Commercial Paper Notes"). The Trustee shall authenticate and deliver Commercial Paper Notes to the City or upon its order, but only upon satisfaction of the following conditions:

(a) If so required by the Supplemental Resolution, the Trustee shall have received a credit facility or a liquidity facility with respect to such Commercial Paper Notes containing such terms and conditions, including with respect to reimbursement, as shall be approved by the Commission;

(b) The Trustee shall have received a certificate of an Authorized Officer of the City setting forth the Commercial Paper Payment Plan with respect to such Commercial Paper Notes. Such certificate shall be amended from time to time by a new certificate of an Authorized Officer of the City to reflect changes, if any, in the expectations of the City with respect to the sources of funds to be utilized to pay principal of and interest on such Commercial Paper Notes; and

(c) If such Commercial Paper Notes shall be Parity Commercial Paper Notes, the Trustee shall have received, prior to the initial issuance of Commercial Paper Notes of a Series, the items referred to in paragraph 1 of Section 202, modified to refer to the Commercial Paper Notes rather than Bonds, and, if applicable, Section 204.

2. The City may appoint a fiscal agent to perform such duties of the Trustee hereunder as the City shall specify in the Supplemental Resolution authorizing such Commercial Paper Notes. Any such fiscal agent shall meet the minimum qualifications applicable to a successor Trustee set forth in Section 909.

3. The proceeds, including accrued interest, if any, of Commercial Paper Notes shall be applied simultaneously with the delivery of such Commercial Paper Notes as provided in the Supplemental Resolution authorizing such Commercial Paper Notes.

**SECTION 211. Medium-Term Notes.** 1. Medium-Term Notes may be issued from time to time in Series secured by a pledge and assignment of the Trust Estate on a parity with the pledge and lien created by paragraph 1 of Section 501 to secure the Bonds (“Parity Medium-Term Notes”). Medium-Term Notes may also be issued from time to time in series secured by a pledge and assignment of the Subordinated Indebtedness Fund which pledge shall be subordinate in all respects to the pledge of the Trust Estate created by the Resolution in favor of the Bonds but on a parity with the pledge and lien securing Subordinated Indebtedness (“Subordinated Medium-Term Notes”). The Trustee shall authenticate and deliver Medium-Term Notes to the City or upon its order, but only upon satisfaction of the following conditions:

(a) If so required by the Supplemental Resolution, the Trustee shall have received a credit facility or a liquidity facility with respect to such Medium-Term Notes containing such terms and conditions, including with respect to reimbursement, as shall be approved by the Commission;

(b) The Trustee shall have received a certificate of an Authorized Officer of the City setting forth the Medium-Term Note Payment Plan with respect to such Medium-Term Notes. Such certificate shall be amended from time to time by a new certificate of an Authorized Officer of the City to reflect changes, if any, in the expectations of the City with respect to the sources of funds to be utilized to pay principal of and interest on such Medium-Term Notes; and

(c) If such Medium-Term Notes shall be Parity Medium-Term Notes, the Trustee shall have received, prior to the initial issuance of Medium-Term Notes of a Series, the items referred to in paragraph 1 of Section 202, modified to refer to the Medium-Term Notes rather than Bonds,\* and, if applicable, Section 204.

2. The City may appoint a fiscal agent to perform such duties of the Trustee hereunder as the City shall specify in the Supplemental Resolution authorizing such Medium-Term Notes. Any such fiscal agent shall meet the minimum qualifications applicable to a successor Trustee set forth in Section 909.

3. The proceeds, including accrued interest, if any, of Medium-Term Notes shall be applied simultaneously with the delivery of such Medium-Term Notes as provided in the Supplemental Resolution authorizing such Medium-Term Notes.

## ARTICLE III

### GENERAL TERMS AND PROVISIONS OF BONDS

**SECTION 301. Medium of Payment; Form and Date; Letters and Numbers.**

1. The Bonds of each Series shall be payable, with respect to interest, principal and Redemption Price, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

2. Unless otherwise provided in a Supplemental Resolution, the Bonds of each Series shall be issued in the form of fully registered Bonds without coupons. The Bonds shall be in substantially the form set forth in the Supplemental Resolution authorizing the Series of which such Bonds are a part.

3. Each Bond shall be lettered and numbered as provided in the Supplemental Resolution authorizing the Series of which such Bond is a part and so as to be distinguished from every other Bond.

4. Bonds of each Series shall be dated the date of their authentication, except as may be otherwise provided in the Supplemental Resolution authorizing the Bonds of such Series, and shall bear interest as provided in the Supplemental Resolution authorizing the Bonds of such Series.

**SECTION 302. Legends.** The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of the Resolution as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, or otherwise, as may be determined by the City prior to the authentication and delivery thereof.

**SECTION 303. Execution and Authentication.** 1. The Bonds shall be executed in the name of the City by the manual or facsimile signature of its Mayor and the seal of the City (or a facsimile thereof), shall be impressed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of the Clerk of the Commission of the City; provided however, that the signature of either the Mayor or the Clerk of the Commission shall be manual signatures, or in such other manner as may be required or permitted by law. The Bonds shall be approved as to form and legality by the City Attorney. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed and sealed on behalf of the City by such persons as at the time of the execution of such Bonds shall be duly authorized or hold the proper office in the City, although at the date borne by the Bonds of such Series such persons may not have been so authorized or have held such office.

2. The validation certificate appearing on the Bonds, if any, shall be signed by the facsimile signature of the Mayor and attested with the facsimile signature of the Clerk of the Commission of the City, or in such other manner as may be required or permitted by law, and the City may adopt and use for that purpose the facsimile signature of any person or persons who shall have been Mayor or Clerk of the Commission of the City at any time on or after the date borne by the Bonds of such Series, notwithstanding that such person may not have been such Mayor or Clerk of the Commission of the City at the date of any such Bond or may have ceased to be such Mayor or Clerk of the Commission of the City at the time when any such Bond shall be authenticated and delivered.

3. The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in the Supplemental Resolution authorizing the Bonds of such Series, executed manually by the Trustee. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under the Resolution and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Bond executed on behalf of the City shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under the Resolution and that the Holder thereof is entitled to the benefits of the Resolution.

**SECTION 304. Interchangeability of Bonds.** Bonds, upon surrender thereof at the office of the Bond Registrar with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or such owner's duly authorized attorney, may, at the option of the registered owner thereof, and upon payment by such registered owner of any charges which the Bond Registrar may make as provided in Section 306, be exchanged for an equal aggregate principal amount of fully registered Bonds of the same Series, maturity and interest rate of any other authorized denominations.

**SECTION 305. Negotiability, Transfer and Registry.** 1. Bonds shall be transferable only upon the books of the City, which shall be kept for such purposes at the office of the Bond Registrar, by the registered owner thereof in person or by such owner's attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or such owner's duly authorized attorney. Upon the transfer of any such Bond the City shall issue in the name of the transferee a new Bond or Bonds of the same aggregate principal amount and Series, maturity and interest rate as the surrendered Bond.

2. The City and each Fiduciary may deem and treat the person in whose name any Bond shall be registered upon the books of the City as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price, if any, of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon such 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 any Fiduciary shall be affected by any notice to the contrary. The City agrees to indemnify and save each Fiduciary harmless from and against any and all loss, cost, charge, expense, judgment or liability incurred by it, acting in good faith and without negligence under the Resolution, in so treating such registered owner.

**SECTION 306. Regulations With Respect to Exchanges and Transfers.** In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the City shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of the Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be delivered to the Trustee and cancelled or retained by the Trustee. For every such exchange or transfer of Bonds, the City or the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge imposed in connection with said exchange, transfer or registration by a governmental unit other than the City. Unless otherwise provided in a Supplemental Resolution, neither the City nor the Bond Registrar shall be required (a) to transfer or exchange any Bond of any Series for the period next preceding any interest payment date for the Bonds of such Series beginning with the Regular Record Date for such interest payment date and ending on such interest payment date, or for the period next preceding any date for the proposed payment of Defaulted Interest with respect to such Bond beginning with the Special Record Date for the date of such proposed payment and ending on the date of such proposed payment, (b) to transfer or exchange Bonds of any Series for a period beginning 15 days before the first

mailing of any notice of redemption and ending on the day of such mailing, or (c) to transfer, exchange or register any Bonds called for redemption.

**SECTION 307. Bonds Mutilated, Destroyed, Stolen or Lost.** If any Bond becomes mutilated or is lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate and deliver a new Bond of like Series, date of issue, maturity date, principal amount, interest rate per annum and redemption provisions as the Bond so mutilated, lost, stolen or destroyed, provided that (i) in the case of such mutilated Bond, such Bond is first surrendered to the City, (ii) in the case of any such lost, stolen or destroyed Bond, there is first furnished evidence of such loss, theft or destruction satisfactory to the City together with indemnity satisfactory to the City, (iii) all other reasonable requirements of the City are complied with, and (iv) expenses in connection with such transaction are paid by the Holder. Any such Bond surrendered for exchange shall be cancelled. Any such new Bonds issued pursuant to this Section in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the City, whether or not the Bonds so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits with all other Bonds issued under the Resolution in the Trust Estate.

**SECTION 308. Payment of Interest on Bonds; Interest Rights Reserved.** Interest on any Bond which is payable, and is punctually paid or duly provided for, on any interest payment date shall be paid to the person in whose name that Bond is registered at the close of business on the date (hereinafter the "Regular Record Date") which, unless otherwise provided in the Supplemental Resolution authorizing such Bond, is the 15th day of the calendar month next preceding such interest payment date.

Any interest on any Bond which is payable, but is not punctually paid or duly provided for, on any interest payment date (hereinafter "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Regular Record Date by virtue of having been such owner; and such Defaulted Interest shall be paid by the City to the persons in whose names the Bonds are registered at the close of business on a date (hereinafter the "Special Record Date") for the payment of such Defaulted Interest, which shall be fixed in the following manner. The City shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment, and at the same time the City shall deposit with the Trustee 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 Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this Section provided. Thereupon the Trustee 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 and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee 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, first class postage prepaid, to each Bondholder at such Bondholder's address as it appears in the books of the City kept at the office of the Bond Registrar, not less than 10 days prior to such Special Record Date.

Subject to the foregoing provisions of this Section, each Bond delivered under this Resolution upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

**SECTION 309. Book Entry Bonds.** 1. Anything in the Resolution to the contrary notwithstanding, if and to the extent provided in the Supplemental Resolution authorizing the

Bonds of the Series of which such Bond is a part, any Bond may be authorized and issued as a Book Entry Bond.

2. For all purposes of the Resolution, the Holder of a Book Entry Bond shall be the Securities Depository therefor and neither the City nor any Fiduciary shall have any responsibility or obligation to the beneficial owner of such Bond or to any direct or indirect participant in such Securities Depository. Without limiting the generality of the foregoing, neither the City nor any Fiduciary shall have any responsibility or obligation to any such participant or to the beneficial owner of a Book Entry Bond with respect to (i) the accuracy of the records of the Securities Depository or any participant with respect to any beneficial ownership interest in such Bond, (ii) the delivery to any participant of the Securities Depository, the beneficial owner of such Bond or any other person, other than the Securities Depository, of any notice with respect to such Bond, including any notice of the redemption thereof, or (iii) the payment to any participant of the Securities Depository, the beneficial owner of such Bond or any other person, other than the Securities Depository, of any amount with respect to the principal or Redemption Price of, or interest on, such Bond. The City and the Fiduciaries may treat the Securities Depository therefor as, and deem such Securities Depository to be, the absolute owner of a Book Entry Bond for all purposes whatsoever, including, but not limited to, (w) payment of the principal or Redemption Price of, and interest on, such Bond, (x) giving notices of redemption and of other matters with respect to such Bond, (y) registering transfers with respect to such Bond and (z) giving to the City or the Trustee any notice, consent, request or demand pursuant to the Resolution for any purpose whatsoever. The Paying Agents shall pay the principal or Redemption Price of, and interest on, a Book Entry Bond only to or upon the order of the Securities Depository therefor, and all such payments shall be valid and effective to satisfy fully and discharge the City's obligations with respect to such principal or Redemption Price, and interest, to the extent of the sum or sums so paid. Except as otherwise provided in subsection 4 of this Section 309 or in any Supplemental Resolution authorizing a Book Entry Bond, no person other than the Securities Depository shall receive a Bond or other instrument evidencing the City's obligation to make payments of the principal or Redemption Price thereof, and interest thereon.

3. The City, in its sole discretion and without the consent of any other person, may, by notice to the Trustee and a Securities Depository, terminate the services of such Securities Depository with respect to the Book Entry Bonds for which such Securities Depository serves as securities depository if the City determines that (i) the Securities Depository is unable to discharge its responsibilities with respect to such Bond or (ii) a continuation of the requirement that all of the Bonds issued as Book Entry Bonds be registered in the registration books of the City in the name of the Securities Depository is not in the best interests of the beneficial owners of such Bonds or of the City. Additional or other terms and provisions relating to the termination or resignation of a Securities Depository may be provided in the Supplemental Resolution authorizing a Book Entry Bond.

4. Upon the termination of the services of a Securities Depository with respect to a Book Entry Bond pursuant to clause (ii) of the first sentence of subsection 3 of this Section 309, such Bond no longer shall be restricted to being registered in the registration books kept by the Bond Registrar in the name of a Securities Depository. Upon the termination of the services of a Securities Depository with respect to a Book Entry Bond pursuant to clause (i) of the first sentence of subsection 3 of this Section 309, the City may within 90 days thereafter appoint a substitute securities depository which, in the opinion of the City, is willing and able to undertake the functions of Securities Depository under the Resolution upon reasonable and customary terms. If no such successor can be found within such period, such Book Entry Bond shall no longer be restricted to being registered in the registration books kept by the Bond Registrar in the name of a Securities Depository. In the event that a Book Entry Bond shall no longer be restricted to being registered in the registration books kept by the Bond Registrar in the name of a Securities Depository, (a) the City shall execute and the Trustee shall authenticate and deliver, upon presentation and surrender of the Book Entry Bond, Bond certificates as requested by the Securities

Depository so terminated of like Series, principal amount, maturity and interest rate, in authorized denominations, to the identifiable beneficial owners in replacement of such beneficial owners' beneficial ownership interests in such Book Entry Bond and (b) the Trustee shall notify the Bond Registrar and the Paying Agents that such Bond is no longer restricted to being registered in the registration books kept by the Bond Registrar in the name of a Securities Depository.

5. Anything in the Resolution to the contrary notwithstanding, payment of the Redemption Price of a Book Entry Bond, or portion thereof, called for redemption prior to maturity may be paid to the Securities Depository by check or draft mailed to the Securities Depository or by wire transfer. Anything in the Resolution to the contrary notwithstanding, such Redemption Price may be paid without presentation and surrender to the Paying Agent of the Book Entry Bond, or portion thereof, called for redemption; provided, however, that payment of (a) the principal payable at maturity of a Book Entry Bond and (b) the Redemption Price of a Book Entry Bond as to which the entire principal amount thereof has been called for redemption shall be payable only upon presentation and surrender of such Book Entry Bond to the Paying Agent; and provided, further, that no such Redemption Price shall be so payable without presentation and surrender unless such Book Entry Bond shall contain or have endorsed thereon a legend substantially to the following effect (or such other legend(s) of similar content as may be specified in the Supplemental Resolution authorizing the Series of Bonds of which such Book Entry Bond is a part as may be determined to be necessary or desirable by the City or such Securities Depository):

“AS PROVIDED IN THE RESOLUTION REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE CITY OF BOOK-ENTRY-ONLY TRANSFERS THROUGH [NAME OF SECURITIES DEPOSITORY] (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE RESOLUTION, “[NAME OF SECURITIES DEPOSITORY]”), AND NOTWITHSTANDING ANY OTHER PROVISION OF THE RESOLUTION TO THE CONTRARY, (A) THIS BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO A NOMINEE OF [NAME OF SECURITIES DEPOSITORY], OR BY A NOMINEE OF [NAME OF SECURITIES DEPOSITORY] TO [NAME OF SECURITIES DEPOSITORY] OR A NOMINEE OF [NAME OF SECURITIES DEPOSITORY], OR BY [NAME OF SECURITIES DEPOSITORY] OR A NOMINEE OF [NAME OF SECURITIES DEPOSITORY] TO ANY SUCCESSOR SECURITIES DEPOSITORY OR ANY NOMINEE THEREOF AND (B) A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE PAYING AGENT. [NAME OF SECURITIES DEPOSITORY] OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF [NAME OF SECURITIES DEPOSITORY] OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE RESOLUTION.”

Anything in the Resolution to the contrary notwithstanding, upon any such payment to the Securities Depository without presentation and surrender, for all purposes of (i) the Book Entry Bond as to which such payment has been made and (ii) the Resolution, the unpaid principal amount of such Book Entry Bond Outstanding shall be reduced automatically by the principal amount so paid. In such event, the Paying Agent shall notify forthwith the Trustee and the Bond Registrar as to the particular Book Entry Bond as to which such payment has been made, and the principal amount of such Bond so paid, and the Bond Registrar shall note such payment on the registration books of the City maintained by it, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book Entry Bond Outstanding as provided in this subsection.



6. For all purposes of the Resolution authorizing or permitting the purchase of Bonds, or portions thereof, by, or for the account of, the City for cancellation, and anything in the Resolution to the contrary notwithstanding, a portion of a Book Entry Bond may be deemed to have been purchased and cancelled without surrender thereof upon delivery to the Bond Registrar of a certificate executed by the City and a participant of the Securities Depository therefor to the effect that a beneficial ownership interest in such Bond, in the principal amount stated therein, has been purchased by, or for the account of, the City through the participant of the Securities Depository executing such certificate; provided, however, that any purchase for cancellation of the entire principal amount of a Book Entry Bond shall be effective for purposes of the Resolution only upon surrender of such Book Entry Bond to the Bond Registrar; and provided, further, that no portion of a Book Entry Bond may be deemed to have been so purchased and cancelled without surrender thereof unless such Book Entry Bond shall contain or have endorsed thereon the legend(s) referred to in subsection 5 of this Section 309. Anything in the Resolution to the contrary notwithstanding, upon delivery of any such certificate to the Bond Registrar, for all purposes of (i) the Book Entry Bond to which such certificate relates and (ii) the Resolution, the unpaid principal amount of such Book Entry Bond Outstanding shall be reduced automatically by the principal amount so purchased. In such event, the Bond Registrar shall notify forthwith the Trustee as to the particular Book Entry Bond as to which a beneficial ownership interest therein has been so purchased, and the principal amount of such Bond so purchased, and the Bond Registrar shall note such reduction in principal amount of such Book Entry Bond Outstanding on the registration books of the City maintained by it, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book Entry Bond Outstanding as provided in this subsection.

7. Anything in the Resolution to the contrary notwithstanding, a Securities Depository may make a notation on a Book Entry Bond (i) redeemed in part or (ii) purchased by, or for the account of, the City in part for cancellation, to reflect, for informational purposes only, the date of such redemption or purchase and the principal amount thereof redeemed or deemed cancelled, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book Entry Bond Outstanding as provided in subsection 5 or 6 of this Section 309, as the case may be.

8. Anything in the Resolution to the contrary notwithstanding, in the case of a Book Entry Bond, the City shall be authorized to redeem or purchase (by or for the account of the City), or issue Refunding Bonds to refund, less than all of the entire Outstanding principal amount thereof (in portions thereof of \$5,000 integral multiples thereof, or such other denominations as shall be specified in the Supplemental Resolution authorizing such Book Entry Bond), and in the event of such partial defeasance, redemption, purchase or refunding, the provisions of the Resolution relating to the defeasance, redemption, purchase or refunding of a Bond or Bonds shall be deemed to refer to the redemption, purchase or refunding of a portion of a Bond.

## **ARTICLE IV**

### **REDEMPTION OF BONDS**

**SECTION 401. Privilege of Redemption and Redemption Price.** Bonds subject to redemption prior to maturity pursuant to their terms or to the terms of the Resolution shall be redeemable, upon notice given as provided in this Article IV, at such times, at such Redemption Prices and upon such terms in addition to or different than the terms contained in this Article IV as may be specified in such Bonds or in the Supplemental Resolution authorizing the Series of which such Bonds are a part.

**SECTION 402. Redemption at the Election or Direction of the City.** In the case of any redemption of Bonds at the election or direction of the City, the City shall give written notice

to the Trustee of its election or direction so to redeem, of the redemption date, of the Series, and of the principal amounts of the Bonds of each maturity of such Series and of the Bonds of each interest rate within a maturity to be redeemed (which Series, maturities, interest rates within a maturity and principal amounts thereof to be redeemed shall be determined by the City in its sole discretion, subject to any limitations with respect thereto contained in the Resolution or any Supplemental Resolution authorizing the Series of which such Bonds are a part). Such notice shall be given at least 40 days prior to the redemption date or such shorter period (a) as shall be specified in the Supplemental Resolution authorizing the Series of Bonds to be redeemed or (b) as shall be acceptable to the Trustee. In the event notice of redemption shall have been given as in Section 405 provided, and unless such notice shall have been revoked or cease to be in effect in accordance with the terms thereof, there shall be paid on or prior to the redemption date to the appropriate Paying Agents an amount which, in addition to other moneys, if any, available therefor held by such Paying Agents, will be sufficient to redeem on the redemption date at the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, all of the Bonds to be redeemed. The City shall promptly notify the Trustee in writing of all such payments by it to a Paying Agent.

**SECTION 403. Redemption Otherwise Than at City's Election or Direction.**

Whenever by the terms of the Resolution the Trustee is required or authorized to redeem Bonds otherwise than at the election or direction of the City, the Trustee shall (i) select the Bonds to be redeemed, (ii) give the notice of redemption and (iii) pay out of moneys available therefor the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, to the appropriate Paying Agents in accordance with the terms of this Article IV and, to the extent applicable, Section 507.

**SECTION 404. Selection of Bonds to be Redeemed.** If fewer than all of the

Bonds of like maturity or interest rate within a maturity of any Series shall be called for prior redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that for any Bond of a denomination of more than the minimum denomination for such Series, the portion of such Bond to be redeemed shall, unless otherwise specified in the Supplemental Resolution relating to such Series, be in a principal amount equal to such minimum denomination or an integral multiple thereof, and that, in selecting portions of such Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of such minimum denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by the amount of such minimum denomination.

**SECTION 405. Notice of Redemption.** When the Trustee shall receive notice

from the City of its election or direction to redeem Bonds pursuant to Section 402, and when redemption of Bonds is authorized or required pursuant to Section 403, the Trustee shall give notice, in the name of the City, of the redemption of such Bonds, which notice shall specify the Series and maturities and interest rates within maturities, if any, of the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if fewer than all of the Bonds of any like Series and maturity and interest rate within maturities are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such date, unless such notice has been rescinded or has ceased to be in effect in accordance with the terms thereof, there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable. Such notice shall be mailed by first class mail, postage prepaid, not less than 30 nor more than 60 days before the redemption date, to the registered owners of any Bonds or portions of Bonds which are to be redeemed, at their last addresses, if any, appearing upon the registry books. Failure to give notice by

mail, or any defect in such notice, shall not affect the validity of the proceedings for the redemption of Bonds. Notwithstanding the foregoing, a Supplemental Resolution authorizing the Bonds of a Series may specify a different method for the giving of a notice of redemption, or a different time by which such notice shall be given.

**SECTION 406. Payment of Redeemed Bonds.** Notice having been given in the manner provided in Section 405 or in the Supplemental Resolution authorizing the Bonds of a Series, on the redemption date so designated, (a) unless such notice shall have been revoked or shall cease to be in effect in accordance with the terms thereof and (b) if there shall be sufficient moneys available therefor, then the Bonds or portions thereof so called for redemption shall become due and payable on the redemption date at the Redemption Price, plus interest accrued and unpaid to the redemption date, and, if presentation and surrender shall be required hereby, upon presentation and surrender thereof at the office specified in such notice, such Bonds, or portions thereof, shall be paid at the Redemption Price, plus interest accrued and unpaid to the redemption date. If there shall be drawn for redemption less than all of a Bond, if presentation and surrender thereof are required thereby, the City shall execute and the Trustee shall authenticate and the Paying Agent shall deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of like Series, maturity, interest rate and redemption provisions in any of the authorized denominations. If, on the redemption date, moneys for the redemption of all the Bonds or portions thereof of any like Series, maturity or interest rate to be redeemed, together with interest to the redemption date, shall be held by the Paying Agents so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid and has not been rescinded or ceased to be in effect, then, from and after the redemption date interest on the Bonds or portions thereof of such Series, maturity and interest rate so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

**SECTION 407. Limitation on City's Ability to Condition or Revoke Notice of Redemption.** Notwithstanding anything to the contrary contained in this Article IV, in the case of any redemption of any Bonds issued prior to the Effective Date, the City shall not be entitled to cause the notice of the redemption thereof to be conditional, nor to revoke (or cause to be revoked) any such notice once given.

**SECTION 408. Cancellation and Destruction of Bonds.** Except as may be otherwise provided with respect to Option Bonds in the Supplemental Resolution providing for the issuance thereof, all Bonds paid or redeemed, either at or before maturity, shall be delivered to the Trustee when such payment or redemption is made, and such Bonds, together with all Bonds purchased which have been delivered to the Trustee for application as a credit against Sinking Fund Installments and all Bonds purchased by the Trustee, shall thereupon be promptly cancelled. Bonds so cancelled may at any time be destroyed by the Trustee, who shall execute a certificate of destruction in duplicate by the signature of one of its authorized officers describing the Bonds so destroyed, and one executed certificate shall be filed with the City and the other executed certificate shall be retained by the Trustee.

## ARTICLE V

### ESTABLISHMENT OF FUNDS AND APPLICATION THEREOF

**SECTION 501. The Pledge Effected by the Resolution.** 1. The Bonds shall be direct and special obligations of the City payable solely from and secured as to the payment of the principal and Redemption Price thereof, and interest thereon, in accordance with their terms and the provisions of the Resolution solely by the Trust Estate and the Trust Estate hereby is pledged and

assigned to the Trustee for the benefit of the holders of the Bonds, subject to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution.

2. The Trust Estate shall immediately be subject to the lien and charge of this Resolution without any physical delivery thereof or further act, and the lien and charge of this Resolution shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise, against the City, irrespective of whether such parties have notice thereof.

3. Amounts on deposit in any separate subaccount established in the Debt Service Reserve Account in the Debt Service Fund, including the investments, if any, thereof, are hereby pledged and assigned to the Trustee as additional security for the payment of the principal and Redemption Price thereof, and interest thereon, the Bonds of each Additionally Secured Series secured thereby, subject to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution.

4. The Bonds shall not constitute a general indebtedness or a pledge of the full faith and credit of the City within the meaning of any constitutional or statutory provision or limitation of indebtedness. No Bondholder shall ever have the right, directly or indirectly, to require or compel the exercise of the ad valorem taxing power of the City for the payment of the principal of or interest on the Bonds or the making of any payments hereunder. The Bonds and the obligations evidenced thereby shall not constitute a lien on any property of or in the City, other than the Trust Estate and, in the case of the Bonds of each Additionally Secured Series, the separate subaccount in the Debt Service Reserve Account in the Debt Service Fund established therefor as herein provided.

5. Nothing contained in the Resolution shall be construed to prevent the City from acquiring, constructing or financing through the issuance of its bonds, notes or other evidences of indebtedness any facilities which do not constitute a part of the System for the purposes of the Resolution or from securing such bonds, notes or other evidences of indebtedness by a mortgage of the facilities so financed or by a pledge of, or other security interest in, the revenues therefrom or any lease or other agreement with respect thereto or any revenues derived from such lease or other agreement; provided that such bonds, notes or other evidences of indebtedness shall not be payable out of or secured by the Trust Estate and neither the cost of such facilities nor any expenditure in connection therewith or with the financing thereof shall be payable from the Trust Estate.

**SECTION 502. Establishment of Funds.** 1. The following Funds and Accounts are hereby established:

- (1) Construction Fund, to be held by the City,
- (2) Revenue Fund, to be held by the City,
- (3) Rate Stabilization Fund, to be held by the City,
- (4) Debt Service Fund, to be held by the Trustee, consisting of a Debt Service Account and a Debt Service Reserve Account,
- (5) Subordinated Indebtedness Fund, to be held by the Trustee, and
- (6) Utilities Plant Improvement Fund, to be held by the City.

2. In the event that the City shall so determine, there may be established by Supplemental Resolution one or more other funds that may be required from time to time by Federal, State or local regulations, by contractual obligations, or in order to operate the System in accordance with Prudent Utility Practice, so as to provide, among other things, for costs of decommissioning, retirement or disposal of facilities, for costs of nuclear waste storage and disposal including the cost of disposal of spent fuel, for maintaining financial responsibility for the closure of hazardous waste storage facilities, or for self insurance. Such funds, if any, shall be held in trust by the City for the sole purpose set forth in the Supplemental Resolution establishing such funds. Deposits into such funds shall be made only after all required deposits have been made into the funds established by paragraph 1 of this Section 502 and shall be made in amounts set forth in the Supplemental Resolution. Deposits into any funds established pursuant to this paragraph shall be made only with amounts defined by the Resolution to be available for use by the City for any lawful purpose and shall neither be governed by the provisions of the Resolution nor considered to be a part of the Trust Estate.

3. Any Fund or Accounts held by the City pursuant to this Section 502 (other than funds established pursuant to paragraph 2 of this Section) shall be maintained in an account at the Trustee or, at the option of the City, at one or more Depositaries in the manner contemplated by Section 601 hereof.

**SECTION 503. Construction Fund.**

1. There shall be paid into the Construction Fund the amounts required to be so paid by the provisions of the Resolution and any Supplemental Resolutions, and there may be paid into the Construction Fund, at the option of the City, any moneys received for or in connection with the System by the City from any other source, unless required to be otherwise applied as provided by the Resolution. Amounts in the Construction Fund shall be applied to the Cost of Acquisition and Construction of the System in the manner provided in this Section.

2. The City shall withdraw amounts from the Construction Fund for the payment of amounts due and owing on account of the Cost of Acquisition and Construction of the System upon determination of an Authorized Officer of the City (or such officer's designee) that an obligation in the amount to be paid from the Construction Fund has been incurred by the City and that each item thereof is a proper and reasonable charge against the Construction Fund, and that such amount has not been paid theretofore.

3. Notwithstanding any of the other provisions of this Section, to the extent that other moneys are not available therefor, amounts in the Construction Fund shall be applied to the payment of principal of and interest on Bonds when due.

4. Amounts credited to the Construction Fund which the City at any time determines to be in excess of the amounts required for the purposes thereof shall be transferred to the Debt Service Reserve Account in the Debt Service Fund, if and to the extent necessary to make the amount in any separate subaccount therein equal to the Debt Service Reserve Requirement related thereto (or, if such excess shall be less than the amount necessary to make up deficiencies with respect to all of the separate subaccounts in the Debt Service Reserve Account, then such excess shall be applied ratably, in proportion to the deficiency in each such subaccount), and any balance of such excess shall, at the option of the City, be transferred to the Utilities Plant Improvement Fund for application to any of the purposes thereof.

5. Nothing in this Section 503 shall be construed to prevent the City from permanently discontinuing the acquisition or construction of any portion of the System the Cost of Acquisition and Construction of which is at the time being paid out of the Construction Fund, if the

Commission determines by resolution that such discontinuance is necessary or desirable in the conduct of the business of the City and not disadvantageous to the Holders of the Bonds.

**SECTION 504. Revenues and Revenue Fund.** As soon as practicable after the receipt of any Revenues, and in any event within ten days of such receipt, the City shall deposit such Revenues in the Revenue Fund.

**SECTION 505. Disposition of Revenues.** 1. On or before the last business day of each calendar month, the Revenues actually received by the City and deposited into the Revenue Fund shall be applied, to the extent available, only in the following manner and in the following order of priority (such application to be made in such a manner so as to assure good funds in such Funds and Accounts on the last business day of such month):

(1) Each month the City shall pay from the Revenue Fund such sums as are necessary to meet Operation and Maintenance Expenses for such month;

(2) The City shall transfer from the Revenue Fund to the Rate Stabilization Fund the amount, if any, budgeted for deposit into such Fund for the then current month as set forth in the current Annual Budget or the amount otherwise determined by the City to be credited to such Fund for the month;

(3) The City shall next forward to the Trustee, for deposit in the Debt Service Fund (i) for credit to the Debt Service Account, the amount, if any, required so that the balance in said Account shall equal the Accrued Aggregate Debt Service as of the last day of the then current month plus, to the extent not theretofore deposited therein as Debt Service, the amount coming due in such month on Parity Hedging Contract Obligations; provided that, for the purposes of computing the amount to be deposited in said Account, there shall be excluded from the balance in said Account the amount, if any, set aside in said Account from the proceeds of Bonds (including amounts, if any, transferred thereto from the Construction Fund) for the payment of interest on Bonds less that amount of such proceeds to be applied in accordance with the Resolution to the payment of interest accrued and unpaid and to accrue on Bonds to the last day of the then current calendar month; and (ii) for credit to each separate subaccount in the Debt Service Reserve Account, the amount, if any, required so that the balance in each such subaccount shall equal the Debt Service Reserve Requirement related thereto including any amount required to be credited to any separate subaccount in the Debt Service Reserve Account to satisfy any Reserve Deposits established for any Additionally Secured Series of Bonds as of the last day of the then current month (or, if the amount on deposit in the Revenue Fund shall not be sufficient to make the deposits required to be made pursuant to this clause (ii) with respect to all of the separate subaccounts in the Debt Service Reserve Account, then such amount on deposit in the Revenue Fund shall be applied ratably, in proportion to the amount necessary for deposit into each such subaccount);

(4) The City shall next forward to the Trustee, for deposit from Revenues in the Subordinated Indebtedness Fund, the amount, if any, as shall be required to be deposited therein in the then current month to pay principal or sinking fund installments of and premiums, if any, and interest on each issue of Subordinated Indebtedness coming due in such month, whether as a result of maturity or prior call for redemption, and to provide reserves therefor, as required by the Supplemental Resolution authorizing such issue of Subordinated Indebtedness; and

(5) The City shall next pay into the Utilities Plant Improvement Fund such amount as it shall deem appropriate provided that for each Fiscal Year deposits into such Fund shall be at

least equal to one-half (1/2) of the Net Revenues including interest income, but excluding other non-operating revenues and expenses, during the immediately preceding Fiscal Year, less the sum of (i) Aggregate Debt Service during the immediately preceding Fiscal Year and (ii) interest and principal paid during the immediately preceding Fiscal Year with respect to all Subordinated Indebtedness payable out of Revenues under this Resolution.

2. The balance of any moneys remaining in the Revenue Fund after the above required payments have been made may be used by the City for any lawful purpose; provided, however, that none of the remaining moneys shall be used for any purpose other than those hereinabove specified unless all current payments, including payments to the Utilities Plant Improvement Fund calculated on a pro rata annual basis, and including all deficiencies in prior payments, if any, have been made in full and unless the City shall have complied fully with all the covenants and provisions of the Resolution; and provided, further, that so long as there shall be held in the Debt Service Fund an amount sufficient to pay in full all Outstanding Bonds and Parity Hedging Contract Obligations in accordance with their terms (including the maximum amount of principal or applicable sinking fund Redemption Price and interest which could become payable thereon), no transfers shall be required to be made to the Debt Service Fund.

**SECTION 506. Rate Stabilization Fund.** 1. Each month the City shall transfer from the Rate Stabilization Fund to the Revenue Fund the amount budgeted for transfer into such Fund for the then current month as set forth in the current Annual Budget or the amount otherwise determined by the City to be deposited into such Fund for the month. The City may also from time to time withdraw amounts currently on deposit in the Rate Stabilization Fund and (i) transfer such amounts to any other Fund or Account established under the Resolution, (ii) use such amounts to purchase or redeem Bonds and/or Subordinated Indebtedness; provided, however, that in the case of the purchase of Bonds and/or Subordinated Indebtedness, the Bonds and/or Subordinated Indebtedness shall be purchased at a price not to exceed the Redemption Price which would be applicable if the Bonds and/or Subordinated Indebtedness were redeemed at the time of the intended purchase or as soon thereafter as such Bonds and/or Subordinated Indebtedness shall be subject to redemption, or (iii) use such amounts to otherwise provide for the payment of Bonds and/or Subordinated Indebtedness.

2. At any time and from time to time the City may transfer for deposit in the Rate Stabilization Fund from any source such amounts as the City deems necessary or desirable; such amounts shall be applied for purposes of the Rate Stabilization Fund in accordance with paragraph 1 of this Section 506.

**SECTION 507. Debt Service Fund – Debt Service Account.** 1. The Trustee shall pay out of the Debt Service Account to the respective Paying Agents (i) on or before each interest payment date for any of the Bonds the amount required for the interest payable on such date; (ii) on or before each Principal Installment due date, the amount required for the Principal Installment payable on such due date; and (iii) on or before any redemption date for the Bonds, the amount required for the payment of interest on the Bonds then to be redeemed. Such amounts shall be applied by the Paying Agents on and after the due dates thereof. The Trustee shall also pay out of the Debt Service Account the accrued interest included in the purchase price of Bonds purchased for retirement and, at the direction of an Authorized Officer of the City, on or before the due date thereof, amounts due in respect of any Parity Hedging Contract Obligation.

2. Amounts accumulated in the Debt Service Account with respect to any Sinking Fund Installment (together with amounts accumulated therein with respect to interest on the Bonds for which such Sinking Fund Installment was established) may and, if so directed by the City, shall be applied by the Trustee, on or prior to the 60th day preceding the due date of such Sinking Fund Installment, to (i) the purchase of Bonds of the Series, maturity and interest rate within each maturity for

which such Sinking Fund Installment was established, or (ii) the redemption at the applicable sinking fund Redemption Price of such Bonds, if then redeemable by their terms. After the 60th day but on or prior to the 40th day preceding the due date of such Sinking Fund Installment, any amounts then on deposit in the Debt Service Account (exclusive of amounts, if any, set aside in said Account which were deposited therein from proceeds of Bonds) may, and, if so directed by the City, shall, be applied by the Trustee to the purchase of Bonds of the Series, maturity and interest rate within each maturity for which such Sinking Fund Installment was established in an amount not exceeding that necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment. All purchases of any Bonds pursuant to this paragraph 2 shall be made at prices not exceeding the applicable sinking fund Redemption Price of such Bonds plus accrued interest, and such purchases shall be made by the Trustee as directed by the City. The applicable sinking fund Redemption Price (or principal amount of maturing Bonds) of any Bonds so purchased or redeemed shall be deemed to constitute part of the Debt Service Account until such Sinking Fund Installment date, for the purpose of calculating the amount of such Account. As soon as practicable after the 40th day preceding the due date of any such Sinking Fund Installment, the Trustee shall proceed to call for redemption, by giving notice as provided in Section 405, on such due date Bonds of the Series, maturity and interest rate within each maturity for which such Sinking Fund Installment was established (except in the case of Bonds maturing on a Sinking Fund Installment date) in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment after making allowance for any Bonds purchased or redeemed pursuant to Section 510 which the City has directed the Trustee to apply as a credit against such Sinking Fund Installment as provided in Section 511. The Trustee shall pay out of the Debt Service Account to the appropriate Paying Agents, on or before such redemption date (or maturity date), the amount required for the redemption of the Bonds so called for redemption (or for the payment of such Bonds then maturing), and such amount shall be applied by such Paying Agents to such redemption (or payment). All expenses in connection with the purchase or redemption of Bonds shall be paid by the City from the Revenue Fund.

3. The amount, if any, deposited in the Debt Service Account from the proceeds of each Series of Bonds shall be set aside in such Fund and applied to the payment of interest on Bonds in accordance with certificates of the City delivered to the Trustee pursuant to clause (10) of paragraph 1 of Section 202 or, in the event that the City shall modify or amend any such certificate by a subsequent certificate signed by an Authorized Officer of the City and filed with the Trustee, (with a copy to the Co-Trustee, if any), then in accordance with the most recent such certificates or amended certificates.

4. In the event of the refunding or defeasance of any Bonds, the Trustee shall, if the City so directs, withdraw from the Debt Service Account in the Debt Service Fund all, or any portion of, the amounts accumulated therein and deposit such amounts with itself as Trustee to be held for the payment of the principal or Redemption Price, if applicable, and interest on the Bonds being refunded; provided that such withdrawal shall not be made unless (a) immediately thereafter the Bonds being refunded shall be deemed to have been paid pursuant to paragraph 2 of Section 1201, and (b) the amount remaining in the Debt Service Account in the Debt Service Fund, after giving effect to the issuance of the Refunding Bonds and the disposition of the proceeds thereof, shall not be less than the requirement of such Account pursuant to clause (3) of paragraph 1 of Section 505. In the event of such refunding or defeasance, the City may also direct the Trustee to withdraw from the Debt Service Account in the Debt Service Fund all, or any portion of, the amounts accumulated therein and deposit such amounts in any Fund or Account under this Resolution; provided, however, that such withdrawal shall not be made unless items (a) and (b) referred to hereinabove have been satisfied and provided, further, that, at the time of such withdrawal, there shall exist no deficiency in any Fund or Account held under this Resolution.

**SECTION 508. Debt Service Fund – Debt Service Reserve Account. 1.**

There shall be established in the Debt Service Reserve Account in the Debt Service Fund one or more



separate subaccounts, each of which subaccounts shall be for the benefit and security of one or more Series of Bonds, in the manner and to the extent provided in the Supplemental Resolution establishing each such subaccount. The Prior Bonds shall not be secured by any such separate subaccounts. If on the last business day of any month the amount in the Debt Service Account shall be less than the amount required to be in such Account pursuant to clause (3) of paragraph 1 of Section 505, the Trustee shall apply amounts from each separate subaccount in the Debt Service Reserve Account to the extent necessary to cure the deficiency.

2. Whenever the moneys on deposit in any subaccount established in the Debt Service Reserve Account shall exceed the Debt Service Reserve Requirement related thereto, after giving effect to any surety bond, insurance policy, letter of credit, or other similar obligation deposited in such Account pursuant to paragraph 4 of this Section 508, such excess shall upon the request of the City be transferred to the City and credited upon the City's receipt thereof to make up any deficiencies in the Subordinated Indebtedness Fund and the Utilities Plant Improvement Fund, in that order. Any balance of such excess shall be credited to the Revenue Fund.

3. Whenever the amount in any subaccount established in the Debt Service Reserve Account, without giving effect to any surety bond, insurance policy, letter of credit or other similar obligation deposited in such Account pursuant to paragraph 4 of this Section 508, together with the amount in the Debt Service Account, is sufficient to pay in full all Outstanding Bonds and Parity Hedging Contract Obligations in accordance with their terms (including the maximum amount of principal or applicable sinking fund Redemption Price and interest which could become payable thereon), the funds on deposit in the Debt Service Reserve Account shall be transferred to the Debt Service Account. Prior to said transfer, all investments held in the Debt Service Reserve Account shall be liquidated to the extent necessary in order to provide for the timely payment of principal and interest (or Redemption Price) on Bonds. Any provision of the Resolution to the contrary notwithstanding, so long as there shall be held in the Debt Service Fund an amount sufficient to pay in full all Outstanding Bonds in accordance with their terms (including the maximum amount of principal or applicable sinking fund Redemption Price and interest which could become payable thereon), no deposits shall be required to be made into the Debt Service Reserve Account.

4. In lieu of the required transfers of moneys to the Debt Service Reserve Account, the City may cause to be deposited into any subaccount established in the Debt Service Reserve Account for the benefit of the holders of the Bonds of each Additionally Secured Series secured thereby an irrevocable surety bond, an insurance policy, a letter of credit or any other similar obligation in an amount equal to the difference between the Debt Service Reserve Requirement related thereto and the sums of moneys or value of Investment Securities then on deposit in such subaccount, if any. The surety bond, insurance policy, letter of credit or other similar obligation shall be payable (upon the giving of notice as required thereunder) on any due date on which moneys will be required to be withdrawn from such subaccount and applied to the payment of a Principal Installment of or interest on any Bonds of each Additionally Secured Series secured thereby and such withdrawal cannot be met by amounts on deposit in such subaccount. The entity providing any such surety bond, insurance policy letter of credit or similar obligation shall the qualifications set forth in the Supplemental Resolution establishing such subaccount. If a disbursement is made pursuant to a surety bond, an insurance policy, a letter of credit or any other similar obligation provided pursuant to this subsection, the City shall within twelve months either (i) reinstate the maximum limits of such surety bond, insurance policy, letter of credit or other similar obligation or (ii) deposit into the subaccount established in the Debt Service Reserve Account funds in the amount of the disbursement made under such surety bond, insurance policy, letter of credit or other similar obligation, or a combination of such alternatives, as shall provide that the amount in such subaccount equals the Debt Service Reserve Requirement related thereto. In the event that the rating attributable to any insurer providing any surety bond, insurance policy or other similar obligation or any

bank or trust company providing any letter of credit or other similar obligation held as above provided in any separate subaccount in the Debt Service Reserve Account shall fall below that required as above provided, the City shall within twelve months either (i) replace such surety bond, insurance policy, letter of credit or other similar obligation with a surety bond, insurance policy, letter of credit or other similar obligation which shall meet the above provided requirements or (ii) deposit into such separate subaccount in the Debt Service Reserve Account sufficient funds, or a combination of such alternatives, as shall provide that the amount in such separate subaccount in the Debt Service Reserve Account equals the Debt Service Reserve Requirement related thereto.

5. In the event of the refunding or defeasance of any Bonds of an Additionally Secured Series, the Trustee shall, if the City so directs, withdraw from the separate subaccount in the Debt Service Reserve Account in the Debt Service Fund established for the benefit of the Bonds of such Additionally Secured Series all, or any portion of, the amounts accumulated therein and deposit such amounts with itself as Trustee to be held for the payment of the principal or Redemption Price, if applicable, and interest on the Bonds being refunded; provided that such withdrawal shall not be made unless (a) immediately thereafter the Bonds being refunded shall be deemed to have been paid pursuant to paragraph 2 of Section 1201, and (b) the amount remaining in such separate subaccount in the Debt Service Reserve Account in the Debt Service Fund, after giving effect to any surety bond, insurance policy, letter of credit or other similar obligation deposited in such subaccount pursuant to paragraph 4 of this Section 508, after giving effect to the issuance of the Refunding Bonds and the disposition of the proceeds thereof, shall not be less than the Debt Service Reserve Requirement related thereto. In the event of such refunding or defeasance, the City may also direct the Trustee to withdraw from such separate subaccount in the Debt Service Reserve Account all or any portion of the amounts accumulated therein and deposit such amounts in any Fund or Account under the Resolution; provided that such withdrawal shall not be made unless items (a) and (b) referred to hereinabove have been satisfied; and provided further, that, at the time of such withdrawal, there shall exist no deficiency in any Fund or Account held under the Resolution.

**SECTION 509. Subordinated Indebtedness Fund.** 1. Subject to paragraph 3 hereof, the Trustee shall apply amounts in the Subordinated Indebtedness Fund to the payment of the principal or sinking fund installments of and interest and premium on each issue of Subordinated Indebtedness and reserves therefor in accordance with the provisions of, and subject to the priorities and limitations and restrictions provided in, the Supplemental Resolution authorizing each issue of Subordinated Indebtedness.

2. At any time and from time to time the City may deposit in the Subordinated Indebtedness Fund for the payment of the principal or sinking fund installments of and interest and premium on each issue of Subordinated Indebtedness amounts received from the proceeds of additional issues of Subordinated Indebtedness or amounts received from any other source.

3. If at any time the amounts in the Debt Service Account or in any separate subaccount in the Debt Service Reserve Account shall be less than the current requirements of such accounts, respectively, pursuant to clause (3) of paragraph 1 of Section 505 and there shall not be on deposit in the Utilities Plant Improvement Fund available moneys sufficient to cure such deficiency, then the Trustee shall withdraw from the Subordinated Indebtedness Fund and deposit in the Debt Service Account or such separate subaccount(s) in the Debt Service Reserve Account, as the case may be, the amount necessary (or all the moneys in said Fund, if less than the amount necessary) to make up such deficiency (or, if the amount in said Fund shall be less than the amount necessary to make up the deficiencies with respect to the Debt Service Account and all of the separate subaccounts in the Debt Service Reserve Account, then the amount in said Fund shall be applied first to make up the deficiency in the Debt Service Account, and any balance remaining shall be applied ratably to make up the deficiencies

with respect to the separate subaccounts in the Debt Service Reserve Account, in proportion to the deficiency in each such subaccount).

**SECTION 510. Utilities Plant Improvement Fund.** 1. Amounts deposited in the Utilities Plant Improvement Fund shall be applied to (i) payments into the Debt Service Account or into any separate subaccount in the Debt Service Reserve Account in the Debt Service Fund; (ii) payments for the cost of extensions, enlargements or additions to, or the replacement of capital assets of the System and emergency repairs thereto; (iii) payments into the Subordinated Indebtedness Fund; (iv) purchasing or redeeming Bonds and/or Subordinated Indebtedness; provided, however, that in the case of the purchase of Bonds and/or Subordinated Indebtedness, the Bonds and/or Subordinated Indebtedness shall be purchased at a price not to exceed the principal amount and Redemption Price which would be applicable if the Bonds and/or Subordinated Indebtedness were redeemed at the time of the intended purchase or as soon thereafter as such Bonds and/or Subordinated Indebtedness shall be subject to redemption; or (iv) otherwise to provide for the payment of the Bonds and/or Subordinated Indebtedness. If at any time amounts on deposit in the Utilities Plant Improvement Fund are determined by the City to be in excess of the requirements thereof, and other moneys are not available for the payment of Operation and Maintenance Expenses, then such excess may be used for the payment of Operation and Maintenance Expenses.

2. If and to the extent provided in a Supplemental Resolution authorizing Bonds of a Series, amounts from the proceeds of such Bonds may be credited to the Utilities Plant Improvement Fund as specified in the Supplemental Resolution for any purpose of such Fund.

3. No payments shall be made from the Utilities Plant Improvement Fund if and to the extent that the proceeds of insurance or other moneys recoverable as the result of damage, if any, are available to pay the costs otherwise payable from such Fund.

4. If at any time the amounts in the Debt Service Account or in any separate subaccount in the Debt Service Reserve Account in the Debt Service Fund shall be less than the current requirement of such Accounts, respectively, pursuant to clause (3) of paragraph 1 of Section 505, then the City shall transfer from the credit of the Utilities Plant Improvement Fund to the Trustee for deposit in the Debt Service Account or any separate subaccount in the Debt Service Reserve Account, as the case may be, the amount necessary (or all the moneys in said Fund if less than the amount necessary) to make up any deficiencies in payments to said Accounts required by clause (3) of paragraph 1 of Section 505; provided, however, if the amount in said Fund shall be less than the amount necessary to make up the deficiencies with respect to the Debt Service Account and all of the separate subaccounts in the Debt Service Reserve Account, then the amount in said Fund shall be applied first to make up the deficiency in the Debt Service Account, and any balance remaining shall be applied ratably to make up the deficiencies with respect to the separate subaccounts in the Debt Service Reserve Account, in proportion to the deficiency in each such subaccount.

5. If at any time the amounts in the Subordinated Indebtedness Fund shall be less than the current requirement of such Fund and the amounts on deposit in the Debt Service Account and in each separate subaccount in the Debt Service Reserve Account in the Debt Service Fund shall equal the current requirement of such Accounts, respectively, pursuant to clause (3) of paragraph 1 of Section 505 and such amounts are not required for payment of Operation and Maintenance Expenses, then the City shall transfer from the credit of the Utilities Plant Improvement Fund to the Trustee for deposit in the Subordinated Indebtedness Fund the amount necessary (or all the moneys in said Fund if less than the amount necessary) to make up such deficiency.

**SECTION 511. Credits Against Sinking Fund Installments.** If at any time Bonds of any Series or maturity for which Sinking Fund Installments shall have been established are purchased or redeemed other than pursuant to paragraph 2 of Section 507 or deemed to have been paid pursuant to paragraph 2 of Section 1201 and, with respect to such Bonds which have been deemed paid, irrevocable instructions have been given to the Trustee to redeem or purchase the same on or prior to the due date of the Sinking Fund Installment to be credited under this Section 511, the City may from time to time and at any time by written notice to the Trustee specify the portion, if any, of such Bonds so purchased, redeemed or deemed to have been paid and not previously applied as a credit against any Sinking Fund Installment which are to be credited against future Sinking Fund Installments. Such notice shall specify the amounts of such Bonds to be applied as a credit against such Sinking Fund Installment or Installments and the particular Sinking Fund Installment or Installments against which such Bonds are to be applied as a credit; provided, however, that none of such Bonds may be applied as a credit against a Sinking Fund Installment to become due less than 45 days after such notice is delivered to the Trustee. All such Bonds to be applied as a credit shall be surrendered to the Trustee for cancellation on or prior to the due date of the Sinking Fund Installment against which they are being applied as a credit. The portion of any such Sinking Fund Installment remaining after the deduction of any such amounts credited toward the same (or the original amount of any such Sinking Fund Installment if no such amounts shall have been credited toward the same) shall constitute the unsatisfied balance of such Sinking Fund Installment for the purpose of calculation of Sinking Fund Installments due on a future date.

**SECTION 512. Subordinated Indebtedness.** The City may, at any time, or from time to time, issue Subordinated Indebtedness for any lawful purpose payable out of, and which may be secured by a security interest in and pledge and assignment of such amounts in the Subordinated Indebtedness Fund as may from time to time be available for the purpose of payment thereof as provided in Section 509; provided, however, that any security interest and pledge and assignment shall be, and shall be expressed to be, subordinate in all respects to the security interest in and pledge and assignment of the Trust Estate created by the Resolution as security for the Bonds.

## **ARTICLE VI**

### **DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS**

**SECTION 601. Depositaries.** 1. All moneys held by the Trustee and the Co-Trustee under the provisions of the Resolution shall constitute trust funds and the Trustee and Co-Trustee may deposit such moneys with one or more Depositaries in trust for said parties. All moneys held by the City under the Resolution shall constitute trust funds and the City shall deposit such moneys with one or more Depositaries in trust for the Trustee and the Co-Trustee, if any. All moneys deposited under the provisions of the Resolution with the Trustee, the Co-Trustee or any Depositary shall be held in trust and applied only in accordance with the provisions of the Resolution, and each of the Funds and Accounts established by the Resolution shall be a trust fund for the purposes thereof.

2. Each Depositary shall be a bank, savings and loan association or trust company organized under the laws of any state of the United States or a national banking association having capital stock, surplus and undivided earnings aggregating at least \$10,000,000 and willing and able to accept the office on reasonable and customary terms and authorized by law to act in accordance with the provisions of the Resolution.

3. Moneys and securities credited to any Fund or Account under the Resolution held by the City may be commingled with moneys and securities credited to other Funds or Accounts under the Resolution held by the City for purposes of establishing checking or other bank accounts, for purposes

of investing funds or otherwise; provided, however, the City shall at all times maintain or cause to be maintained accurate books and records reflecting the amounts credited to each Fund and Account under the Resolution held by the City. All withdrawals from any commingled moneys shall be charged against the proper Fund or Account under the Resolution and no moneys shall be withdrawn from commingled moneys if there is not on credit to the Fund or Account under the Resolution to be charged sufficient funds to cover such withdrawal.

**SECTION 602. Deposits.** 1. All Revenues and other moneys held by any Depositary under the Resolution may be placed on demand or time deposit, if and as directed by the City, provided that such deposits shall permit the moneys so held to be available for use at the time when needed. All such moneys deposited with a Fiduciary, acting as a Depositary, may be made in the commercial banking department of any Fiduciary which may honor checks and drafts on such deposit with the same force and effect as if it were not such Fiduciary. All moneys held by any Fiduciary, as such, may be deposited by such Fiduciary in its banking department on demand or, if and to the extent directed by the City and acceptable to such Fiduciary, on time deposit, provided that such moneys on deposit be available for use at the time when needed. Such Fiduciary shall allow and credit on such moneys such interest, if any, as it customarily allows upon similar funds of similar size and under similar condition or as required by law.

2. All moneys held under the Resolution by the Trustee, Co-Trustee or any Depositary shall not at any time exceed 10% of the combined capital, surplus and undivided earnings of the Trustee, Co-Trustee or such Depositary, as the case may be, unless such moneys are either (1) fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or (2) secured, to the extent not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, by lodging with the Trustee, or Co-Trustee, as custodian, as collateral security, Investment Securities having a market value (exclusive of accrued interest) not less than the amount of such moneys (or portion thereof not insured by the Federal Deposit Insurance Corporation), and held in such other manner as may then be required by applicable Federal or State of Florida laws and regulations and applicable state laws and regulations of the state in which the Trustee, Co-Trustee or such Depositary (as the case may be) is located, regarding security for, or granting a preference in the case of, the deposit of trust funds; provided, however, that, to the extent permitted by law, it shall not be necessary for the Fiduciaries to give security under this paragraph 2 for the deposit of any moneys with them held in trust and set aside by them for the payment of the principal or Redemption Price of or interest on any Bonds, or for the Trustee, Co-Trustee or any Depositary to give security for any moneys which shall be represented by obligations or certificates of deposit purchased as an investment of such moneys.

3. All moneys deposited with the Trustee, Co-Trustee and each Depositary shall be credited to the particular Fund or Account to which such moneys belong.

4. Whenever moneys are required to be transferred from one Fund or Account created under the Resolution to another Fund or Account, such transfer may be made by the transfer of cash or the transfer of Investment Securities in an amount sufficient to satisfy the purpose for which such transfer is required.

**SECTION 603. Investment of Certain Funds.** Moneys held in the Debt Service Account in the Debt Service Fund and in the Debt Service Reserve Account in the Debt Service Fund shall be invested and reinvested to the fullest extent practicable in Investment Securities as shall be directed by the City which mature not later than at such times as shall be necessary to provide moneys when needed for payments to be made from such Accounts. Subject to the terms of any resolutions, indentures, or other instruments securing any issue of Subordinated Indebtedness, moneys in the

Subordinated Indebtedness Fund shall be invested and reinvested to the fullest extent practicable in Investment Securities which mature not later than such times as shall be necessary to provide moneys when needed for payments to be made from said Fund. Moneys held in the Revenue Fund and the Construction Fund may be invested and reinvested in Investment Securities which mature not later than such times as shall be necessary to provide moneys when needed for payments to be made from such Funds. Moneys in the Rate Stabilization Fund and the Utilities Plant Improvement Fund may be invested in Investment Securities which mature within five years from the date of such investment, and in any case the Investment Securities in such Funds or in the Accounts therein shall mature not later than such times as shall be necessary to provide moneys when needed to provide payments from such Funds or Accounts. The Trustee or the Co-Trustee, as the case may be, shall make all such investments of moneys held by it in accordance with written instructions received from any Authorized Officer of the City. In making any investment in any Investment Securities with moneys in any Fund or Account established under the Resolution, the City may, and may instruct the Trustee and the Co-Trustee to, combine such moneys with moneys in any other Fund or Account, but solely for purposes of making such investment in such Investment Securities.

Interest (net of that which represents a return of accrued interest paid in connection with the purchase of any investment) earned on any moneys or investments in such Funds and Accounts, other than the Construction Fund, shall be paid into the Revenue Fund; provided, however, that if the City so directs, such income earned on moneys or investments in any Fund or Account, or any portion thereof, shall be paid into the Construction Fund. Interest earned on any moneys or investments in the Construction Fund shall be held in such Fund for application as provided in Section 503 or, if so directed by the City, paid into the Revenue Fund.

Nothing in the Resolution shall prevent any Investment Securities acquired as investments of funds held under the Resolution from being issued or held in book-entry form on the books of the Department of the Treasury of the United States.

**SECTION 604. Valuation and Sale of Investments.** Obligations purchased as an investment of moneys in any Fund created under the provisions of the Resolution shall be deemed at all times to be a part of such Fund and any profit realized from the liquidation of such investment shall be credited to such Fund and any loss resulting from the liquidation of such investment shall be charged to such Fund.

In computing the amount in any Fund created under the provisions of the Resolution for any purpose provided in the Resolution, obligations purchased as an investment of moneys therein shall be valued at the amortized cost thereof. The accrued interest paid in connection with the purchase of any obligation shall be included in the value thereof until interest on such obligation is paid. Such computation shall be made as of September 30 in each year and at such other times as the City shall determine. In the event that the City causes to be deposited in any separate subaccount in the Debt Service Reserve Account for the benefit of the holders of Bonds of any Additionally Secured Series, pursuant to the provisions of paragraph 4 of Section 508, an irrevocable surety bond, an insurance policy, a letter of credit or any other similar obligation, such surety bond, insurance policy, letter of credit or other obligation shall be valued at the lesser of the face amount thereof or the maximum amount available thereunder.

Except as otherwise provided in the Resolution, the Trustee or the Co-Trustee, if any, shall sell at the best price obtainable, or present for redemption, any obligation so purchased as an investment whenever it shall be requested in writing by an Authorized Officer of the City so to do. Whenever it shall be necessary in order to provide moneys to meet any payment or transfer from any Fund held by the Trustee or the Co-Trustee, if any, the Trustee or the Co-Trustee, if any, shall sell at the

best price obtainable or present for redemption such obligation or obligations designated by an Authorized Officer of the City necessary to provide sufficient moneys for such payment or transfer; provided, however, that if the City fails to provide such designation promptly after request thereof by the Trustee or the Co-Trustee, if any, the Trustee or the Co-Trustee, if any, may in its discretion select the obligation or obligations to be sold or presented for redemption. Neither the Trustee nor the Co-Trustee, if any, shall be liable or responsible for any loss resulting from the making of any such investment or the sale of any obligation in the manner provided above.

## **ARTICLE VII**

### **PARTICULAR COVENANTS OF THE CITY**

The City covenants and agrees with the Trustee and the Bondholders as follows:

**SECTION 701. Payment of Bonds.** The City shall duly and punctually pay or cause to be paid, but solely from the Trust Estate, and, in the case of the Bonds of each Additionally Secured Series, the separate subaccount in the Debt Service Reserve Account in the Debt Service Fund with respect thereto, the principal or Redemption Price of every Bond and the interest thereon, at the dates and places and in the manner mentioned in the Bonds, according to the true intent and meaning thereof.

**SECTION 702. Extension of Payment of Bonds.** The City shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of claims for interest by the funding of such Bonds or claims for interest or by any other arrangement and in case the maturity of any of the Bonds or the time for payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default under the Resolution, to the benefit of the Resolution or to any payment out of Revenues or Funds established by the Resolution, including the investments, if any, thereof, pledged under the Resolution or the moneys (except moneys held in trust for the payment of particular Bonds or claims for interest pursuant to the Resolution) held by the Fiduciaries, except subject to the prior payment of the principal of all Bonds Outstanding the maturity of which has not been extended and of such portion of the accrued interest on the Bonds as shall not be represented by such extended claims for interest. Nothing herein shall be deemed to limit the right of the City to issue Option Bonds or Refunding Bonds, and neither such issuance nor the exercise by the holder of any Option Bond of any of the rights appertaining to such Option Bond shall be deemed to constitute an extension of maturity of Bonds.

**SECTION 703. Offices for Servicing Bonds.** Except as may be otherwise provided in any Supplemental Resolution with respect to any Series of Bonds, the City shall at all times maintain one or more agencies in New York, New York where Bonds may be presented for payment and shall at all times maintain one or more agencies in New York, New York where Bonds may be presented for registration, transfer or exchange. The City shall at all times maintain one or more agencies in New York, New York where notices, demands and other documents may be served upon the City in respect of the Bonds or of the Resolution. The City hereby appoints the Trustee, initially, as the Bond Registrar to maintain the agency for the registration, transfer or exchange of Bonds, and for the service upon the City of such notices, demands and other documents, and the Trustee or any successor Bond Registrar shall continuously maintain or make arrangements to provide such services. The City hereby appoints the Paying Agents in such cities as its respective agents to maintain such agencies for the payment or redemption of Bonds.

**SECTION 704. Further Assurance.** At any and all times the City shall, as far as it may be authorized by law, comply with any reasonable request of the Trustee or the Co-Trustee to pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds,

conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, pledging, assigning and confirming all and singular the rights, Revenues and other moneys, securities and funds hereby pledged or assigned, or intended so to be, or which the City may become bound to pledge or assign.

**SECTION 705. Power to Issue Bonds and Pledge Revenues and Other Funds.** The City is duly authorized under all applicable laws to create and issue the Bonds and to adopt the Resolution and to pledge the Trust Estate and, in the case of the Bonds of each Additionally Secured Series, the separate subaccount in the Debt Service Reserve Account in the Debt Service Fund with respect thereto, in the manner and to the extent provided in the Resolution. Except to the extent otherwise provided in the Resolution, the Trust Estate and each separate subaccount in the Debt Service Reserve Account in the Debt Service Fund are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the security interest, pledge and assignment created by the Resolution, and all corporate or other action on the part of the City to that end has been and will be duly and validly taken. The Bonds and the provisions of the Resolution are and will be the valid and legally enforceable obligations of the City in accordance with their terms and the terms of the Resolution. The City shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Trust Estate and each separate subaccount in the Debt Service Reserve Account in the Debt Service Fund and all the rights of the Bondholders under the Resolution against all claims and demands of all persons whomsoever.

**SECTION 706. Power to Fix and Collect Rates, Fees and Charges.** The City has, and will have as long as any Bonds are Outstanding, good right and lawful power to establish and collect rates, fees and charges with respect to the use and the sale of the capacity, output or service of the System subject to the terms of contracts relating thereto and subject to the jurisdiction of any applicable regulatory authority.

**SECTION 707. Creation of Liens; Sale and Lease of Property.** 1. The City shall not issue any bonds, notes, debentures, or other evidences of indebtedness of similar nature, other than the Bonds and Parity Hedging Contract Obligations, payable out of or secured by a security interest in or pledge or assignment of the Trust Estate, any separate subaccount in the Debt Service Reserve Account in the Debt Service Fund or other moneys, securities or funds held or set aside by the City or by the Fiduciaries under the Resolution and shall not create or cause to be created any lien or charge on the Trust Estate, any separate subaccount in the Debt Service Reserve Account in the Debt Service Fund or such moneys, securities or funds; provided, however, that nothing contained in the Resolution shall prevent the City from issuing, if and to the extent permitted by law, (i) evidences of indebtedness (a) payable out of moneys in the Construction Fund as part of the Cost of Acquisition and Construction of the System, or (b) payable out of, or secured by a security interest in or pledge or assignment of, Revenues to be received on and after such date as the pledge of the Revenues provided in the Resolution shall be discharged and satisfied as provided in Section 1201, or (ii) Subordinated Indebtedness.

2. No part of the System shall be sold, leased, mortgaged or otherwise disposed of, except as follows:

(1) The City may sell or exchange at any time and from time to time any property or facilities constituting part of the System only if it shall determine that the sale or exchange of such property or facilities will not impair the ability of the City to comply during the current or any future Fiscal Year with the provisions of Section 710. The proceeds of any such sale or exchange not used to acquire other property necessary or desirable for the safe or efficient operation of the System shall forthwith be deposited in the Utilities Plant Improvement Fund; and



(2) In addition to any agreement currently in effect to which the City is a party relating to the ownership or operation of any part of the System or the use of the output thereof, the City may lease or make contracts or grant licenses for the operation of, or make arrangements for the use of, or grant easements or other rights with respect to, any part of the System, provided that any such lease, contract, license, arrangement, easement or right (i) does not impede the operation by the City or its agents of the System and (ii) does not in any manner impair or adversely affect the rights or security of the Bondholders under the Resolution; and provided, further, that if the book value of the property to be covered by any such lease, contract, license, arrangement, easement or other right is in excess of 1% of the book value of the total assets of the System at such time, the City shall first file with the Trustee a certificate of an Authorized Officer of the City setting forth a determination of the Commission that the action of the City with respect thereto does not result in a breach of the conditions under this clause (2). Any payments received by the City under or in connection with any such lease, contract, license, arrangement, easement or right in respect of the System or any part thereof shall constitute Revenues;

(3) The limitations imposed upon the City by clauses (1) and (2) of this paragraph 2 shall not apply to any disposition of property by the City where: (i) such property is leased back to the City under a lease having a term of years (including renewal options) of not less than 75% of the remaining estimated useful life of the property computed from the date of disposition and lease, (ii) fair value to the City (as determined by the City) is received by the City for the property subject to such transaction, (iii) proceeds of such transaction, after payment of expenses, are set aside as a deposit in the Utilities Plant Improvement Fund, and (iv) the Trustee receives a certified copy of resolutions of the Commission to the effect that, based upon such certificates and opinions as the Commission shall deem necessary or appropriate, the Commission has determined that the disposition and lease are not materially adverse to the Holders of the Bonds; and

(4) The City may permanently discontinue the acquisition or construction of any portion of the System as provided in paragraph 5 of Section 503.

**SECTION 708. Annual Budget.** For each Fiscal Year the City shall prepare and adopt a budget for the System for the next ensuing Fiscal Year. Such budget shall be promptly delivered to the Trustee and the Co-Trustee, if any. If necessary, the City shall immediately increase rates if and when any such increase is required in order to produce budgeted anticipated Revenues, or to comply with the requirements of the rate covenant in Section 710 hereof.

**SECTION 709. Operation and Maintenance of System.** The City shall at all times use its best efforts to operate or cause to be operated the System properly and in an efficient and economical manner, consistent with Prudent Utility Practice, and shall use its best efforts to maintain, preserve, reconstruct and keep the same or cause the same to be so maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time make, or use its best efforts to cause to be made, all necessary and proper repairs, replacements and renewals so that at all times the operation of the System may be properly and advantageously conducted.

**SECTION 710. Rates, Fees and Charges.** 1. The City shall at all times establish and collect rates, fees and charges for the use or the sale of the output, capacity or service of the System which, together with other available Revenues, are reasonably expected to yield Net Revenues which shall be equal to at least 1.25 times the Aggregate Debt Service for the forthcoming 12-month period and, in any event, as shall be required, together with other available funds, to pay or discharge all other indebtedness, charges and liens whatsoever payable out of Revenues under the Resolution;

provided, however, that any Principal Installment which is a Refundable Principal Installment may be excluded from Aggregate Debt Service for purposes of the foregoing but only to the extent that the City intends to pay such Principal Installment from sources other than Revenues. Promptly upon any material change in the circumstances which were contemplated at the time such rates, fees and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, the City shall review the rates, fees and charges so established and shall promptly revise such rates, fees and charges as necessary to comply with the foregoing requirements, provided that such rates, fees and charges shall in any event produce moneys sufficient to enable the City to comply with all its covenants under the Resolution.

2. No free service or service otherwise than in accordance with the established rates, fees and charges shall be furnished by the System, which rates, fees and charges shall not permit the granting of preferential rates, fees or charges among the users of the same class of customers. If and to whatever extent the City receives the services and facilities of the System, it shall pay for such services and facilities according to the City's established rate schedule, and the amounts so paid shall be included in the amount of Revenues.

3. In estimating Aggregate Debt Service on any Variable Rate Bonds, Parity Commercial Paper Notes or Parity Medium-Term Notes for purposes of paragraph 1 of this Section 710, the City shall be entitled to assume that such Variable Rate Bonds, Parity Commercial Paper Notes or Parity Medium-Term Notes will bear such interest rate or rates as the City shall determine; provided, however, that the interest rate or rates assumed shall not be less than the interest rate borne by such Variable Rate Bonds, Parity Commercial Paper Notes or Parity Medium-Term Notes, as the case may be, at the time of determination of Aggregate Debt Service.

**SECTION 711. Enforcement of Charges and Connections.** The City shall compel the prompt payment of rates, fees, rentals and charges imposed for service rendered by the System, and to that end will vigorously enforce all of the provisions of any ordinance or resolution of the City having to do with electric, water, wastewater, natural gas and telecommunications connections and charges and any other System charges, and all of the rights and remedies permitted the City under law. The City by this Section expressly covenants and agrees to exercise and enforce every right and remedy legally available to it to the end that such rates, fees, rentals and charges will be enforced and promptly collected to the full extent permitted by law.

**SECTION 712. Maintenance of Insurance; Reconstruction; Application of Insurance Proceeds.** 1. The City shall provide protection for the System both in accordance with the requirements of all agreements, if any, to which the City may at the time be a party with respect to joint ownership by the City with others of electric, water, wastewater, natural gas, telecommunications or other System facilities, and in accordance with Prudent Utility Practice. Said protection may consist of insurance, self insurance and indemnities. The City will keep, or cause to be kept, the works, plants and facilities comprising the properties of the System insured, and will carry such other insurance against fire and other risks, accidents or casualties at least to the extent and of the kinds that insurance is usually carried by utilities operating like properties. Any insurance shall be in the form of policies or contracts for insurance with insurers of good standing, shall be payable to the City and may provide for such deductibles, exclusions, limitations, restrictions and restrictive endorsements customary in policies for similar coverage issued to entities operating properties similar to the properties of the System. Any self insurance shall be in the amounts, manner and of the type provided by entities operating properties similar to the properties of the System. Within one hundred and eighty (180) days after the close of each Fiscal Year the City will file with the Trustee and the Co-Trustee, if any, a certificate stating whether during such year the System has suffered damage or destruction in an amount of more than \$2,000,000 and, if so, the amount of insurance proceeds received on account of such damage or destruction and specifying the reasonable and necessary cost of reconstruction or replacement.

2. In the event of any loss or damage to the System covered by insurance, the City will, with respect to each such loss, promptly repair, reconstruct or replace the parts of the System affected by such loss or damage to the extent necessary to the proper conduct of the operation of the business of the System, shall cause the proceeds of such insurance to be applied for that purpose to the extent required therefor, and pending such application shall hold the proceeds of any insurance policy covering such damage or loss in trust to be applied for that purpose to the extent required therefor. Any excess insurance proceeds received by the City shall be transferred to the Revenue Fund.

**SECTION 713. Accounts and Reports.** 1. The City shall keep or cause to be kept proper books of record and account (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the System and each Fund and Account established under the Resolution in accordance with the Uniform System of Accounts. All such books of record, together with all other books and papers of the City, including insurance policies, relating to the System, shall at all times be subject to the inspection of the Trustee, the Co-Trustee and the Holders of an aggregate of not less than 5% in principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.

2. The Trustee and the Co-Trustee shall advise the City promptly after the end of each month of their respective transactions during such month relating to each Fund and Account held by them under the Resolution. The City shall advise the Trustee and the Co-Trustee, if any, promptly after the end of each fiscal quarter of transactions during such quarter relating to each Fund and Account held by it under the Resolution.

3. The City shall annually, within one hundred and eighty (180) days after the close of each Fiscal Year, file with the Trustee and the Co-Trustee, if any, and otherwise as provided by law, a copy of an annual report for such Fiscal Year, accompanied by an Accountant's Report relating to the System and including the following statements in reasonable detail: a balance sheet of the System at the close of such Fiscal Year; and a Statement of Revenues and Operation and Maintenance Expenses for such Fiscal Year. Such Accountant's Report shall also state that in the course of the examination made for purposes of such report, such accountant or firm of accountants, as the case may be, obtained no knowledge, except as specifically stated, of any default by the City, with respect to any of the covenants, agreements or conditions on its part contained in the Resolution.

4. In the event that the annual report of the City pursuant to paragraph 3 of this Section 713 shows that the Net Revenues for the preceding Fiscal Year were not equal to at least 1.10 times the Aggregate Debt Service for such preceding Fiscal Year, the City shall cause the Consulting Engineer to file with the City, the Trustee and the Co-Trustee, if any, a certificate stating specific changes in operation procedures or revisions in rates, fees and charges, or both, which may be made and which would, in the aggregate, in its opinion, have resulted in Net Revenues being equal to at least 1.25 times the Aggregate Debt Service for such preceding Fiscal Year. Within 30 days of receipt of any such certificate, the City shall be entitled to present to the Consulting Engineer, for its consideration, alternative recommendations for the purpose of achieving such level of debt service coverage. The City covenants and agrees to effect the changes, revisions or both, which the Consulting Engineer determines, after consideration of the recommendations of the City, would, in the aggregate, have produced such level of debt service coverage. The Consulting Engineer shall promptly file a certificate setting forth such determination with the City, the Trustee and the Co-Trustee, if any.

5. The reports, statements and other documents required to be furnished to the Trustee pursuant to any provisions of the Resolution shall be available for the inspection of Bondholders at the office of the Trustee and shall be mailed to each Bondholder who shall file a written request

therefor with the City. The City may charge for such reports, statements and other documents, a reasonable fee to cover reproduction, handling and postage.

**SECTION 714. Payment of Taxes and Charges.** The City will from time to time duly pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges, or required payments in lieu thereof, lawfully imposed upon the properties of the City or upon the rights, revenues, income, receipts, and other moneys, securities and funds of the City when the same shall become due (including all rights, moneys and other property transferred, assigned or pledged under the Resolution), and all lawful claims for labor and material and supplies, except those taxes, assessments, charges or claims which the City shall in good faith contest by proper legal proceedings if the City shall in all such cases have set aside on its books reserves deemed adequate with respect thereto.

**SECTION 715. No Diminution of Rights.** The City will not enter into any contract or arrangement, nor take any action, the results of which might impair or diminish the rights of the Holders of the Bonds. The City, unless prevented by lawful authority beyond control of the City, shall continue to render electric, water, wastewater and other services of the System within the unincorporated areas of Alachua County and shall continue to extend such services as reasonably prudent so to do. The City shall not voluntarily give up any service area of the System unless the City shall determine that such action will not materially impair or diminish the rights of the Holders of the Bonds, and the City shall in good faith resist all efforts which may result in the diminution of such service area. The City shall not surrender its power and authority to fix and maintain rates and conditions for services of the System, and the City shall in good faith resist all efforts which may result in the abridgement or diminution of any such power and authority.

**SECTION 716. Governmental Reorganization.** Notwithstanding any other provisions of this Resolution, including without limitation, paragraph 2 of Section 707 hereof, this Resolution shall not prevent any lawful reorganization of the governmental structure of the City, including a merger or consolidation of the City with another public body or the transfer of a public function of the City to another public body, provided that any reorganization which affects the System shall provide that the System shall be continued as a single enterprise and that any public body which succeeds to the ownership and operation of the System shall also assume all rights, powers, obligations, duties and liabilities of the City under this Resolution and pertaining to all Bonds. Except as permitted in this Section 717, the City shall not cause or permit its corporate existence to be abolished and shall resist all attempts to contract or diminish the territorial limits of the City or the service area of the System.

**SECTION 717. Additional Utility Functions.** The City may expand the utility functions of the System as they exist on the date hereof as permitted by the proviso contained in the definition of "System" in Section 101, only if the City files with the Trustee a certified copy of resolutions of the Commission to the effect that, based upon such certificates and opinions of its Consulting Engineers, independent certified public accountants, bond counsel, financial advisors or other appropriate advisors as the Commission shall deem necessary or appropriate, the addition of such utility functions (a) will not impair the ability of the City to comply during the current or any future Fiscal Year with the provisions of the Resolution, including specifically Section 710, and (b) will not materially adversely affect the rights of the Holders of the Bonds.

**SECTION 718. General.** 1. The City shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the City under the provisions of the Act and the Resolution.

2. Upon the date of authentication and delivery of any of the Bonds, all conditions, acts and things required by law and the Resolution to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds shall exist, have happened and have been performed and the issuance of such Bonds shall comply in all respects with the applicable laws of the State of Florida.

## **ARTICLE VIII**

### **EVENTS OF DEFAULT AND REMEDIES OF BONDHOLDERS**

**SECTION 801. Events of Default.** If one or more of the following Events of Default shall happen:

(i) if default shall be made in the due and punctual payment of the principal or Redemption Price of any Bond when and as the same shall become due and payable, whether at maturity or by call or proceedings for redemption, or otherwise;

(ii) if default shall be made in the due and punctual payment of any installment of interest on any Bond or the unsatisfied balance of any Sinking Fund Installment, when and as such interest installment or Sinking Fund Installment shall become due and payable;

(iii) the Revenues in any Fiscal Year shall be inadequate to comply with the requirements of Section 710 hereof, unless the City promptly takes remedial action to ensure compliance thereafter consistent with the determination of the Consulting Engineer rendered pursuant to paragraph 4 of Section 713 hereof;

(iv) if default shall be made by the City in the performance or observance of any other of the covenants, agreements or conditions on its part in the Resolution or in the Bonds contained, and such default shall have continued for a period of 90 days after written notice specifying such default and requiring that it shall have been remedied and stating that such notice is a "Notice of Default" hereunder is given to the City by the Trustee or to the City and to the Trustee by the Holders of not less than 25% in principal amount of the Bonds Outstanding;

(v) a court having jurisdiction in the premises shall enter a decree or order providing for relief in respect of the City in an involuntary case under any applicable bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the City or for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and such decree or order shall remain unstayed and in effect for a period of ninety (90) days; or

(vi) the City shall commence a voluntary case under any applicable bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the City or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due or shall take any action in furtherance of the foregoing;

then, and in each and every such case, so long as such Event of Default shall not have been remedied, unless the principal of all the Bonds shall have already become due and payable, either the Trustee (by notice in writing to the City and the Co-Trustee, if any), or the Holders of not less than 25% in principal amount of the Bonds Outstanding (by notice in writing to the City, the Trustee and the Co-Trustee, if any), may declare the principal of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in the Resolution or in any of the Bonds contained to the contrary notwithstanding. The right of the Trustee or of the Holders of not less than 25% in principal amount of the Bonds to make any such declaration as aforesaid, however, is subject to the condition that if, at any time after such declaration, but before the Bonds shall have matured by their terms, all overdue installments of interest on the Bonds, together with interest on such overdue installments of interest to the extent permitted by law and the reasonable and proper charges, expenses and liabilities of the Trustee and the Co-Trustee, if any, and all other sums then payable by the City under the Resolution (except the principal of, and interest accrued since the next preceding interest date on, the Bonds due and payable solely by virtue of such declaration) shall either be paid by or for the account of the City or provision satisfactory to the Trustee and the Co-Trustee, if any, shall be made for such payment, and all defaults under the Bonds or under the Resolution (other than the payment of principal and interest due and payable solely by reason of such declaration) shall be made good or be secured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case the Holders of 25% in principal amount of the Bonds Outstanding, by written notice to the City, the Trustee and the Co-Trustee, if any, may rescind such declaration and annul such default in its entirety, or, if the Trustee shall have acted itself, and if there shall not have been theretofore delivered to the Trustee written direction to the contrary by the Holders of 25% in principal amount of the Bonds Outstanding, then any such declaration shall *ipso facto* be deemed to be rescinded and any such default shall *ipso facto* be deemed to be annulled, but no such rescission or annulment shall extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

**SECTION 802. Accounting and Examination of Records After Default. 1.**

The City covenants that if an Event of Default shall have happened and shall not have been remedied, the books of records and accounts of the City and all other records relating to the System shall at all times be subject to the inspection and use of the Trustee and of its agents and attorneys.

2. The City covenants that if an Event of Default shall happen and shall not have been remedied, the City, upon demand of the Trustee, will account, as if it were the trustee of an express trust, for all Revenues and other moneys, securities and funds pledged or held under the Resolution for such period as shall be stated in such demand.

**SECTION 803. Application of Revenues and Other Moneys After Default.**

1. The City covenants that if an Event of Default shall happen and shall not have been remedied, the City, upon the demand of the Trustee, shall pay over or cause to be paid over to the Trustee (i) forthwith, all moneys, securities and funds then held by the City in any Fund under the Resolution, and (ii) all Revenues as promptly as practicable after receipt thereof.

2. During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, funds and Revenues received by the Trustee pursuant to any right given or action taken under the provisions of this Article (other than amounts on deposit in any separate subaccount in the Debt Service Reserve Account in the Debt Service Fund) as follows and in the following order:

- (i) Expenses of Fiduciaries – to the payment of the reasonable and proper charges, expenses and liabilities of the Fiduciaries;

(ii) Operation and Maintenance Expenses – to the payment of the amounts required for reasonable and necessary Operation and Maintenance Expenses and for the reasonable renewals, repairs and replacements of the System necessary in the judgment of the Trustee to prevent a loss of Revenues. For this purpose the books of records and accounts of the City relating to the System shall at all times be subject to the inspection of the Trustee and its representatives and agents during the continuance of such Event of Default;

(iii) Principal or Redemption Price and Interest – to the payment of the interest and principal or Redemption Price then due on the Bonds and the interest and principal components of Parity Hedging Contract Obligations, as follows:

(a) unless the principal of all of the Bonds shall have become or have been declared due and payable,

First: Interest – To the payment to the persons entitled thereto of all installments of interest then due on the Bonds and on the interest component of Parity Hedging Contract Obligations in the order of the maturity of such installments, together with accrued and unpaid interest on the Bonds theretofore called for redemption, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: Principal or Redemption Price – To the payment to the persons entitled thereto of the unpaid principal or Redemption Price of any Bonds and the principal component of Parity Hedging Contract Obligations which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the Bonds and the principal component of Parity Hedging Contract Obligations due on any date, then to the payment thereof ratably, according to the amounts of principal or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference.

(b) if the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds and the principal and interest components of Parity Hedging Contract Obligations without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond or Parity Hedging Contract Obligation over any other Bond or Parity Hedging Contract Obligation, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds and the Parity Hedging Contract Obligations.

During the continuance of an Event of Default, the Trustee shall apply all amounts on deposit in each separate subaccount in the Debt Service Reserve Account in the Debt Service Fund as follows and in the following order:

(a) unless the principal of all of the Bonds shall have become or have been declared due and payable,

First: Interest – To the payment to the persons entitled thereto of all installments of interest then due on the Bonds of each Additionally Secured Series secured by such separate subaccount in the order of the maturity of such installments, together with accrued and unpaid interest on the Bonds of such Additionally Secured Series theretofore called for redemption, and, if the amount available shall not be sufficient to pay in full any such installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: Principal or Redemption Price – To the payment to the persons entitled thereto of the unpaid principal or sinking fund Redemption Price of any Bonds of such Additionally Secured Series which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all such Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal or sinking fund Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference.

(b) if the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds of each Additionally Secured Series secured by such separate subaccount without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any such Bond over any other such Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in such Bonds.

3. If and whenever all overdue installments of interest on all Bonds, together with the reasonable and proper charges, expenses and liabilities of the Trustee, and all other sums payable by the City under the Resolution, including the principal and Redemption Price of and accrued unpaid interest on all Bonds which shall then be payable, shall either be paid by or for the account of the City, or provision satisfactory to the Trustee shall be made for such payment, and all defaults under the Resolution or the Bonds shall be made good or secured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, the Trustee shall pay over to the City all moneys, securities and funds then remaining unexpended in the hands of the Trustee (except moneys, securities and funds deposited or pledged, or required by the terms of the Resolution to be deposited or pledged, with the Trustee), and thereupon the City and the Trustee shall be restored, respectively, to their former positions and rights under the Resolution. No such payment over to the City by the Trustee nor such restoration of the City and the Trustee to their former positions and rights shall extend to or affect any subsequent default under the Resolution or impair any right consequent thereon.

**SECTION 804. Appointment of Receiver.** The Trustee shall have the right to apply in an appropriate proceeding for the appointment of a receiver of the System.

**SECTION 805. Proceedings Brought by Trustee.** 1. If an Event of Default shall happen and shall not have been remedied, then and in every such case, the Trustee, by its agents and attorneys, may proceed, and upon written request of the Holders of not less than 25% in principal amount of the Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Holders of the Bonds under the Resolution forthwith by a suit or suits in equity or at law, whether for the specific



performance of any covenant herein contained, or in aid of the execution of any power herein granted or any remedy granted under the Act, or for an accounting against the City as if the City were the trustee of an express trust, or in the enforcement of any other legal or equitable right as the Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under the Resolution.

2. All rights of action under the Resolution may be enforced by the Trustee without the possession of any of the Bonds or the production thereof at the trial or other proceedings, and any such suit or proceedings instituted by the Trustee shall be brought in its name.

3. The Holders of not less than a majority in principal amount of the Bonds at the time Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, provided that the Trustee shall have the right to decline to follow any such direction if (a) the Trustee shall be advised by counsel that the action or proceeding so directed may not lawfully be taken, (b) the Trustee in good faith shall determine that the action or proceeding so directed would involve the Trustee in personal liability, unless such holders shall agree to indemnify the Trustee against such liability and shall post bond in respect of such indemnity, or (c) the Trustee in good faith shall determine that the action or proceeding so directed would be unjustly prejudicial to the Bondholders not parties to such direction.

4. Upon commencing a suit in equity or upon other commencement of judicial proceedings by the Trustee to enforce any right under the Resolution, the Trustee shall be entitled to exercise any and all rights and powers conferred in the Resolution and provided to be exercised by the Trustee upon the occurrence of any Event of Default.

5. Regardless of the happening of an Event of Default, the Trustee shall have power to, but unless requested in writing by the Holders of a majority in principal amount of the Bonds then Outstanding, and furnished with reasonable security and indemnity, shall be under no obligation to, institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under the Resolution by any acts which may be unlawful or in violation of the Resolution, and such suits and proceedings as the Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Bondholders.

**SECTION 806. Restriction on Bondholder's Action.** 1. No Holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of the Resolution or the execution of any trust under the Resolution or for any remedy under the Resolution, unless such Holder shall have previously given to the Trustee written notice of the happening of an Event of Default, as provided in this Article, and the Holders of at least 25% in principal amount of the Bonds then Outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity, either to exercise the powers granted in the Resolution or by the Act or by the other laws of Florida or to institute such action, suit or proceeding in its own name, and unless such Holders shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a period of 60 days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by such Holders' action to affect, disturb or prejudice the pledge created by the Resolution, or to enforce any right under the Resolution, except in the manner therein provided; and that all proceedings at law or in equity to enforce any provision of the Resolution shall be instituted, had and maintained in the manner provided in the Resolution and for the equal benefit of all Holders of the Outstanding Bonds, subject only to the provisions of Section 702.

2. Nothing in the Resolution or in the Bonds shall affect or impair the obligation of the City, which is absolute and unconditional, to pay, solely from the Trust Estate and, in the case of the Bonds of any Additionally Secured Series, the separate subaccount in the Debt Service Reserve Account in the Debt Service Fund established with respect thereto, at the respective dates of maturity and places therein expressed the principal of (and premium, if any) and interest on the Bonds to the respective Holders thereof, or affect or impair the right of action, which is also absolute and unconditional, of any Holder to enforce such payment of such Holder's Bond.

**SECTION 807. Remedies Not Exclusive.** No remedy by the terms of the Resolution conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Resolution or existing at law, including under the Act, or in equity or by statute on or after the date of adoption of the Resolution.

**SECTION 808. Effect of Waiver and Other Circumstances.** 1. No delay or omission of the Trustee or any Bondholder to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or be an acquiescence therein; and every power and remedy given by this Article to the Trustee or to the Bondholders may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the Bondholders.

2. Prior to the declaration of maturity of the Bonds as provided in Section 801, the Holders of not less than 66-2/3% in aggregate principal amount of the Bonds at the time Outstanding, or their attorneys-in-fact duly authorized, may on behalf of the Holders of all of the Bonds waive any past default under the Resolution and its consequences, except a default in the payment of interest on or principal of or premium (if any) on any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

**SECTION 809. Notice of Default.** The Trustee shall promptly mail written notice of the occurrence of any Event of Default to each registered owner of Bonds then Outstanding at such owner's address, if any, appearing on the registry books of the City.

## ARTICLE IX

### CONCERNING THE FIDUCIARIES

**SECTION 901. Trustee and Co-Trustee; Appointment and Acceptance of Duties.** 1. U.S. Bank Trust National Association shall serve as the initial Trustee hereunder.

2. The Co-Trustee, if any, shall be appointed by a Supplemental Resolution. The Co-Trustee shall signify its acceptance of the duties and obligations imposed upon it by the Resolution and all other agreements with the City by executing and delivering to the City a written acceptance thereof.

**SECTION 902. Paying Agents; Appointment and Acceptance of Duties.** 1. The City shall appoint one or more Paying Agents for the Bonds of each Series, and may at any time or from time to time appoint one or more other Paying Agents having the qualifications set forth in Section 913 for a successor Paying Agent. The Trustee or the Co-Trustee may be appointed a Paying Agent.

2. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by the Resolution by executing and delivering to the City and to the Trustee a written acceptance thereof.

3. Unless otherwise provided, the offices of the Paying Agents are designated as the respective offices or agencies of the City for the payment of the interest on and principal or Redemption Price of the Bonds.

**SECTION 903. Responsibilities of Fiduciaries.** 1. The recitals herein and in the Bonds contained shall be taken as the statements of the City, and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representation as to the validity or sufficiency of the Resolution or of any Bonds issued thereunder or as to the security afforded by the Resolution, and no Fiduciary shall incur any liability in respect thereof. The Trustee shall, however, be responsible for its representation contained in its certificate of authentication on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid by such Fiduciary in accordance with the provisions of the Resolution to or upon the order of the City or to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect thereof, or to advance any of its own moneys, unless properly indemnified. Subject to the provisions of paragraph 2 of this Section 903, no Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence, misconduct or default.

2. The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in the Resolution. In case an Event of Default has occurred (which has not been cured) the Trustee shall exercise such of the rights and powers vested in it by the Resolution, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs. Any provision of the Resolution relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may rely shall be subject to the provisions of this Section 903.

**SECTION 904. Evidence on Which Fiduciaries May Act.** 1. Each Fiduciary, upon receipt of any notice, resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document furnished to it pursuant to any provision of the Resolution, shall examine such instrument to determine whether it conforms to the requirements of the Resolution and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may reasonably consult with counsel, who may or may not be of counsel to the City, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it under the Resolution in good faith and in accordance therewith.

2. Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under the Resolution, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the City, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of the Resolution upon the faith thereof; but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as may seem reasonable to it.

3. Except as otherwise expressly provided in the Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the

City to any Fiduciary shall be sufficiently executed when the same is executed in the name of the City by an Authorized Officer of the City.

**SECTION 905. Compensation.** Prior to its appointment, each Fiduciary shall file with the City a negotiated schedule of anticipated fees and charges for services to be performed pursuant to the Resolution. The City shall pay to each Fiduciary from time to time pursuant to such schedule reasonable compensation for all services rendered under the Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, and other persons not regularly in its employ, incurred in and about the performance of its powers and duties under the Resolution, and each Fiduciary shall have a lien therefor on any and all funds at any time held by it under the Resolution. Subject to the provisions of Section 903, the City further agrees to indemnify and save each Fiduciary harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder, and which are not due to its negligence, misconduct or default.

**SECTION 906. Certain Permitted Acts.** Any Fiduciary may become the owner of any Bonds, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depositary for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or the Resolution, whether or not any such committee shall represent the Holders of a majority in principal amount of the Bonds then Outstanding.

**SECTION 907. Resignation of Trustee or Co-Trustee.** The Trustee or the Co-Trustee may at any time resign and be discharged from the duties and obligations created by the Resolution by giving notice of such resignation as hereinafter provided. Such notice shall specify the date when such resignation shall take effect, and such resignation shall take effect upon the day specified in such notice unless previously a successor shall have been appointed by the City or the Bondholders as provided in Section 909, in which event such resignation shall take effect immediately on the appointment of such successor. Such notice shall be mailed by first class mail, postage prepaid, not less than 60 days prior to the proposed date on which such resignation shall become effective, to the City, the Co-Trustee and the Holders of all Outstanding Bonds, at their last addresses, if any, appearing upon the registration books of the City kept by the Bond Registrar.

**SECTION 908. Removal of Trustee or Co-Trustee.** The Trustee or the Co-Trustee may be removed at any time with or without cause by an instrument or concurrent instruments in writing, filed with the Trustee or the Co-Trustee, and signed by the Holders of a majority in principal amount of the Bonds then Outstanding or their attorneys-in-fact duly authorized. So long as no Event of Default or an event which, with notice or passage of time, or both, would become an Event of Default, shall have occurred and be continuing, the Trustee or the Co-Trustee may be removed at any time for cause by resolution of the City filed with the Trustee or the Co-Trustee, as the case may be.

**SECTION 909. Appointment of Successor Trustee or Co-Trustee.** 1. In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, a successor may be appointed by the City by a duly executed written instrument signed by an Authorized Officer of the City, but if the City does not appoint a successor Trustee within 60 days, then by the Holders of a majority in principal amount of the Bonds then Outstanding, by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or by their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being

given to the City and the predecessor Trustee. The City shall give notice of any such appointment made by it or the Bondholders by first class mail, postage prepaid, within 20 days after such appointment, to the Holders of all Outstanding Bonds, at their last addresses, if any, appearing upon the registration books of the City kept by the Bond Registrar.

2. In case at any time the Co-Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Co-Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Co-Trustee, or of its property or affairs, a successor may be appointed by the City by a duly executed written instrument signed by an Authorized Officer of the City, but if the City does not appoint a successor Co-Trustee within 60 days then the Trustee shall automatically, without any further act, deed or conveyance, become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of the predecessor Co-Trustee with like effect as if originally vested with the same. The City shall give notice of any such appointment or transfer by first class mail, postage prepaid, within 20 days after such appointment or transfer, to the Holders of all Outstanding Bonds, at their last addresses, if any, appearing upon the registration books of the City kept by the Bond Registrar.

3. If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within 45 days after the Trustee shall have given to the City written notice as provided in Section 907 or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, the Co-Trustee or the Holder of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

4. Any Trustee or Co-Trustee appointed under the provisions of this Section in succession to the Trustee or Co-Trustee shall be a bank or trust company or national banking association, having capital stock, surplus and undivided earnings aggregating at least \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Resolution.

**SECTION 910. Transfer of Rights and Property to Successor Trustee or Co-Trustee.** Any successor Trustee or Co-Trustee appointed under the Resolution shall execute, acknowledge and deliver to its predecessor Trustee or Co-Trustee, and also to the City, an instrument accepting such appointment, and thereupon such successor Trustee or Co-Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee or Co-Trustee, with like effect as if originally named as Trustee or Co-Trustee; but the Trustee or Co-Trustee ceasing to act shall nevertheless, on the written request of the City, or of the successor Trustee or Co-Trustee, execute, acknowledge and deliver such instrument of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee or Co-Trustee all the right, title and interest of the predecessor Trustee or Co-Trustee in and to any property held by it under the Resolution, and shall pay over, assign and deliver to the successor Trustee or Co-Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the City be reasonably required by such successor Trustee or Co-Trustee for more fully and certainly vesting in and confirming to such successor Trustee or Co-Trustee any such estates, rights, power and duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the City. The City shall promptly notify the Paying Agents of the appointment of any such successor Trustee or Co-Trustee.

**SECTION 911. Merger or Consolidation.** Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank or trust company organized under the laws of any state of the United States or a national banking association and shall be authorized by law to perform all duties imposed upon it by the Resolution, shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

**SECTION 912. Adoption of Authentication.** In case any of the Bonds contemplated to be issued under the Resolution shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in any case of the said Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all such cases such certificate shall have the full force which it is anywhere in said Bonds or in the Resolution provided that the certificate of the Trustee shall have.

**SECTION 913. Resignation or Removal of Paying Agent and Appointment of Successor.** 1. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by the Resolution by giving at least 60 days' written notice to the City, the Trustee, and the other Paying Agents. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the City. Any successor Paying Agent shall be appointed by the City and shall be a bank or trust company organized under the laws of any state of the United States or national banking association, having capital stock, surplus and undivided earnings aggregating at least \$50,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Resolution.

2. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

**SECTION 914. Bond Registrar.** 1. Any Bond Registrar may at any time resign and be discharged of the duties and obligations created by the Resolution by giving at least 60 days' written notice to the City and the Trustee, if the Bond Registrar is an institution other than the Trustee. The Bond Registrar may be removed at any time by an instrument filed with such Bond Registrar and the Trustee, if the Bond Registrar is an institution other than the Trustee, and signed by an Authorized Officer of the City, provided that a successor Bond Registrar has been appointed by the City.

2. The resignation or removal of the Trustee as Bond Registrar pursuant to paragraph 1 of this Section 914 shall not simultaneously constitute a resignation or removal of the Trustee. Any Trustee acting as Bond Registrar pursuant to Section 703, however, who resigns or is removed as Trustee pursuant to Section 907 or 908, respectively, shall automatically cease to be Bond Registrar, and the City may, at its option, appoint a successor Bond Registrar other than the successor Trustee.

## ARTICLE X

### SUPPLEMENTAL RESOLUTIONS

**SECTION 1001. Supplemental Resolutions Effective Upon Filing With the Trustee.** For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the City may be adopted, which, upon the filing with the Trustee and the Co-Trustee of a copy thereof certified by an Authorized Officer of the City shall be fully effective in accordance with its terms:

(1) To close the Resolution against, or provide limitations and restrictions in addition to the limitations and restrictions contained in the Resolution on, the authentication and delivery of Bonds or the issuance of other evidences of indebtedness;

(2) To add to the covenants and agreements of the City in the Resolution, other covenants and agreements to be observed by the City which are not contrary to or inconsistent with the Resolution as theretofore in effect;

(3) To add to the limitations and restrictions in the Resolution, other limitations and restrictions to be observed by the City which are not contrary to or inconsistent with the Resolution as theretofore in effect;

(4) To authorize Bonds of a Series and, in connection therewith, specify and determine the matters and things referred to in Section 202, and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with the Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such Bonds;

(5) To confirm, as further assurance, any security interest, pledge or assignment under, and the subjection to any security interest, pledge or assignment created or to be created by, the Resolution, of the Revenues or of any other moneys, securities or funds;

(6) To modify any of the provisions of the Resolution in any other respect whatever, provided that (i) such modification shall be, and be expressed to be, effective only after all Bonds of each Series Outstanding at the date of the adoption of such Supplemental Resolution shall cease to be Outstanding, and (ii) such Supplemental Resolution shall be specifically referred to in the text of all Bonds of any Series authenticated and delivered after the date of the adoption of such Supplemental Resolution and of Bonds issued in exchange therefor or in place thereof;

(7) To authorize Subordinated Indebtedness or Parity Hedging Contract Obligations and, in connection therewith, specify and determine any matters and things relative to such Subordinated Indebtedness or Parity Hedging Contract Obligations which are not contrary to or inconsistent with the Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such Subordinated Indebtedness or Parity Hedging Contract Obligations;

(8) To appoint the Co-Trustee;

(9) To provide for the issuance, execution, delivery, authentication, payment, registration, transfer and exchange of Bonds in coupon form payable to bearer or in uncertificated

form, and, in connection therewith, to specify and determine any matters and things relative thereto; and

(10) If and to the extent authorized in a Supplemental Resolution authorizing an Additionally Secured Series of Bonds, to specify the qualifications of any provider of an obligation similar to a surety bond, insurance policy or letter of credit for deposit into the particular subaccount in the Debt Service Reserve Account securing the Bonds of such Additionally Secured Series.

**SECTION 1002. Supplemental Resolutions Effective Upon Consent of Trustee.** For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution may be adopted, which, upon (i) the filing with the Trustee and the Co-Trustee, if any, of a copy thereof certified by an Authorized Officer of the City, and (ii) the filing with the Co-Trustee, if any, and the City of an instrument in writing made by the Trustee consenting thereto, shall be fully effective in accordance with its terms:

(1) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in the Resolution;

(2) To insert such provisions clarifying matters or questions arising under the Resolution as are necessary or desirable and are not contrary to or inconsistent with the Resolution as theretofore in effect; or

(3) To make any other modification or amendment of the Resolution which the Trustee shall in its sole discretion determine will not have a material adverse effect on the interests of Bondholders.

In making any determination under clause (3) of this Section 1002, the Trustee may conclusively rely upon an Opinion of Counsel (which opinion may rely upon the opinions of experts) or a certificate of a Consulting Engineer.

**SECTION 1003. Supplemental Resolutions Effective With Consent of Bondholders.** At any time or from time to time, a Supplemental Resolution may be adopted subject to consent by Bondholders in accordance with and subject to the provisions of Article XI, which Supplemental Resolution, upon the filing with the Trustee and the Co-Trustee, if any, of a copy thereof certified by an Authorized Officer of the City and upon compliance with the provisions of said Article XI, shall become fully effective in accordance with its terms as provided in said Article XI; provided, however, that notwithstanding anything to the contrary contained herein, until such time as all Bonds issued prior to the Effective Date no longer shall be Outstanding, the provisions of Article XI of the Original Resolution (and not the provisions of Article XI hereof) shall govern the procedures with respect to the effectiveness of any Supplemental Resolution requiring the consent of the Holders of any Bonds.

**SECTION 1004. General Provisions.** 1. The Resolution shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article X and Article XI. Nothing in this Article X or Article XI contained shall affect or limit the right or obligation of the City to adopt, make, do, execute, acknowledge or deliver any resolution, act or other instrument pursuant to the provisions of Section 704 or the right or obligation of the City to execute and deliver to any Fiduciary any instrument which elsewhere in the Resolution it is provided shall be delivered to said Fiduciary.



2. Any Supplemental Resolution referred to and permitted or authorized by Sections 1001 or 1002 may be adopted by the City without the consent of any of the Bondholders, but shall become effective only on the conditions, to the extent and at the time provided in said Section. The copy of every Supplemental Resolution when filed with the Trustee shall be accompanied by an Opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted in accordance with the provisions of the Resolution, is authorized or permitted by the Resolution, and is valid and binding upon the City in accordance with its terms.

3. The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Resolution referred to and permitted or authorized by Sections 1001 or 1002 and to make all further agreements and stipulations which may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying on an Opinion of Counsel that such Supplemental Resolution is authorized or permitted by the provisions of the Resolution.

4. No Supplemental Resolution shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

## **ARTICLE XI**

### **AMENDMENTS**

**SECTION 1101. Mailing and Publication.** 1. Any provision in this Article for the mailing of a notice or other paper to Bondholders shall be fully complied with if it is mailed postage prepaid only (i) to each registered owner of Bonds then Outstanding at such owner's address, if any, appearing upon the registry books of the City and (ii) to the Trustee.

2. Any provision in this Article for publication of a notice or other matter shall require the publication thereof only in an Authorized Newspaper.

**SECTION 1102. Powers of Amendment.** Any modification or amendment of the Resolution and of the rights and obligations of the City and of the Holders of the Bonds thereunder, in any particular, may be made by a Supplemental Resolution, with the written consent given as provided in Section 1103 (i) of the Holders of not less than a majority in principal amount of the Bonds Outstanding affected by the modification or amendment at the time such consent is given, and (ii) in case the modification or amendment changes the terms of any Sinking Fund Installment, of the Holders of not less than a majority in principal amount of the Bonds of the particular Series and maturity entitled to such Sinking Fund Installment and Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain outstanding the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of the Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment Bonds of any particular Series or maturity would be affected by any modification or amendment of the Resolution and any such determination shall be

binding and conclusive on the City and all Holders of Bonds. For purposes of this Section, the Holders of any Bonds may include the initial Holders thereof, regardless of whether such Bonds are being held for resale.

**SECTION 1103. Consent of Bondholders.** The City may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section 1102 to take effect when and as provided in this Section. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee), together with a request to affected Bondholders for their consent thereto in form satisfactory to the Trustee, shall be mailed by the City to affected Bondholders (but failure of any affected Holder of a Bond to receive such copy and request shall not affect the validity of the Supplemental Resolution when consented to as in this Section provided). Such Supplemental Resolution shall not be effective unless and until (i) there shall have been filed with the Trustee (with a copy to the Co-Trustee, if any) (a) the written consents of Holders of the percentages of affected Outstanding Bonds specified in Section 1102 and (b) an Opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the City in accordance with the provisions of the Resolution, is authorized or permitted by the Resolution, and is valid and binding upon the City and enforceable in accordance with its terms, and (ii) a notice shall have been given as hereinafter in this Section 1103 provided. It shall not be necessary that the consents of Holders of Bonds approve the particular form of wording of the proposed modification or amendment or of the proposed Supplemental Resolution effecting such modification or amendment, but it shall be sufficient if such consents approve the substance of the proposed amendment or modification. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 1202. A certificate or certificates executed by the Trustee and filed with the Co-Trustee, if any, and the City stating that it has examined such proof and that such proof is sufficient in accordance with Section 1202 shall be conclusive that the consents have been given by the Holders of the Bonds described in such certificate or certificates of the Trustee. Any such consent shall be binding upon the Holder of the affected Bonds giving such consent and, anything in Section 1202 to the contrary notwithstanding, upon any subsequent Holder of such affected Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof) unless such consent is revoked in writing by the Holder of such Bonds giving such consent or a subsequent Holder thereof by filing with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this Section 1103 provided for is filed, such revocation. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Co-Trustee, if any, and the City to the effect that no revocation thereof is on file with the Trustee. At any time after the Holders of the required percentages of affected Bonds shall have filed their consents to the Supplemental Resolution, the Trustee shall make and file with the Co-Trustee, if any, and the City a written statement that the Holders of such required percentages of affected Bonds have filed such consents. Such written statements shall be conclusive that such consents have been so filed. At any time thereafter, notice stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the City on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of affected Bonds and will be effective as provided in this Section 1103, may be given to Bondholders by the City by mailing such notice to Bondholders (but failure of any affected Holder of a Bond to receive such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section 1103 provided) after the Holders of the required percentages of affected Bonds shall have filed their consents to the Supplemental Resolution and the written statement of the Trustee hereinabove provided for is filed. The City shall file with the Trustee (with a copy to the Co-Trustee, if any) proof of the mailing thereof. A record, consisting of the certificates or statements required or permitted by this Section 1103 to be made by the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the City, the Fiduciaries and the Holders of all Bonds at the expiration of 40 days after the filing with the Trustee of the proof of the giving

of such last-mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such 40 day period; provided, however, that any Fiduciary and the City during such 40 day period and any such further period during which any such action or proceeding may be pending shall be entitled in its absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as they may deem expedient.

**SECTION 1104. Modifications or Amendments by Unanimous Consent.** The terms and provisions of the Resolution and the rights and obligations of the City and of the Holders of the Bonds thereunder may be modified or amended in any respect upon the adoption and filing by the City of a Supplemental Resolution and the consent of the Holders of all of the affected Bonds then Outstanding, such consent to be given as provided in Section 1103 except that no notice to affected Bondholders by mailing shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Trustee of the written assent thereto of such Fiduciary in addition to the consent of the Bondholders.

**SECTION 1105. Exclusion of Bonds.** Bonds owned or held by or for the account of the City shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Article XI, and the City shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this Article. At the time of any consent or other action taken under this Article, the City shall furnish the Trustee a certificate of an Authorized Officer of the City, upon which the Trustee may rely, describing all Bonds so to be excluded.

**SECTION 1106. Notation on Bonds.** Bonds authenticated and delivered after the effective date of any action taken as in Article X or this Article XI provided may, and, if the Trustee so determines, shall, bear a notation by endorsement or otherwise in form approved by the City and the Trustee as to such action, and in that case upon demand of the Holder of any Bond Outstanding at such effective date and presentation of such Holder's Bond for the purpose at the corporate trust office of the Trustee or upon any transfer or exchange of any Bond Outstanding at such effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer or exchange by the Trustee as to any such action. If the City or the Trustee shall so determine, new Bonds so modified as in the opinion of the Trustee and the City to conform to such action shall be prepared, authenticated and delivered and upon demand of the Holder of any Bond then Outstanding shall be exchanged, without cost to such Bondholder, for Bonds of the same Series, maturity and interest rate then Outstanding, upon surrender of such Bonds. Any action taken as in Article X or this Article XI provided shall be effective and binding upon all Bondholders notwithstanding that the notation is not endorsed on all Bonds.

## **ARTICLE XII**

### **MISCELLANEOUS**

**SECTION 1201. Defeasance.** 1. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds the principal or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Resolution, then the pledge of the Trust Estate and each separate subaccount in the Debt Service Reserve Account in the Debt Service Fund, and all covenants, agreements and other obligations of the City to the Bondholders, shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the City to be prepared and filed with the City and, upon the request of the City, shall execute and deliver to the City all such instruments as may be desirable to evidence such discharge and satisfaction, and the Fiduciaries

shall pay over or deliver to the City all moneys or securities held by them pursuant to the Resolution which are not required for the payment of principal or Redemption Price, if applicable, of and interest on Bonds. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of any outstanding Bonds the principal or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Resolution, such Bonds shall cease to be entitled to any lien, benefit or security under the Resolution, and all covenants, agreements and obligations of the City to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

2. Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Paying Agents (through deposit by the City of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in paragraph 1 of this Section. In addition, any Outstanding Bonds shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in subsection 1 of this Section (a) upon compliance with the provisions of subsection 3 of this Section or (b) if the City shall have satisfied all of the conditions precedent to such Bonds being so deemed to have been paid set forth in the Supplemental Resolution authorizing the Series of which such Bonds are a part.

3. Subject to the provisions of paragraph 4 through paragraph 8 of this Section, any Outstanding Bonds shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in paragraph 1 of this Section if (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the City shall have given to the Trustee instructions accepted in writing by the Trustee to give as provided in Article IV notice of redemption of such Bonds (other than Bonds which have been purchased by the Trustee at the direction of the City or purchased or otherwise acquired by the City and delivered to the Trustee as hereinafter provided prior to the giving of such notice of redemption) on said date, (b) there shall have been deposited with the Trustee either moneys (including moneys withdrawn and deposited pursuant to paragraph 4 of Section 507 and paragraph 5 of Section 508) in an amount which shall be sufficient, or Defeasance Securities the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, to pay when due the principal or Redemption Price, if applicable, and interest due and to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and (c) in the event said Bonds are not by their terms subject to redemption or to be paid at maturity within the next succeeding 60 days, the City shall have given the Trustee in form satisfactory to it instructions to give, as soon as practicable, by first-class mail, postage prepaid, a notice to the Holders of such Bonds that the deposit required by (b) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Section 1201 and stating such maturity or redemption date upon which moneys are expected, subject to the provisions of paragraph 8 of this Section 1201, to be available for the payment of the principal or Redemption Price, if applicable, on said Bonds (other than Bonds which have been purchased by the Trustee at the direction of the City or purchased or otherwise acquired by the City and delivered to the Trustee as hereinafter provided prior to the giving of the notice of redemption referred to in clause (a) hereof). Any notice given pursuant to the preceding sentence with respect to Bonds which constitute less than all of the Outstanding Bonds of any maturity within a Series shall specify the letter and number or other distinguishing mark of each such Bond. The Trustee shall, as and to the extent necessary, apply moneys held by it pursuant to this Section 1201 to the retirement of said Bonds in amounts equal to the unsatisfied balances (determined as provided in Section 511) of any Sinking Fund Installments with respect to such Bonds, all in the manner provided in the Resolution. The Trustee shall, if so directed by the City (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 1201 which are not to be redeemed prior to their maturity date or (ii) prior to the giving of the notice of redemption referred to in clause (a) above with respect to any Bonds deemed to have been

paid in accordance with this Section 1201 which are to be redeemed on any date prior to their maturity, apply moneys deposited with the Trustee in respect of such Bonds and redeem or sell Defeasance Securities so deposited with the Trustee and apply the proceeds thereof to the purchase of such Bonds and the Trustee shall immediately thereafter cancel all such Bonds so purchased; provided, however, that the moneys and Defeasance Securities remaining on deposit with the Trustee after the purchase and cancellation of such Bonds shall be sufficient to pay when due the Principal Installment or Redemption Price, if applicable, and interest due or to become due on all Bonds, in respect of which such moneys and Defeasance Securities are being held by the Trustee on or prior to the redemption date or maturity date thereof, as the case may be. If, at any time (i) prior to the maturity date of Bonds deemed to have been paid in accordance with Section 1201 which are not to be redeemed prior to their maturity date or (ii) prior to the giving of the notice of redemption referred to in clause (a) with respect to any Bonds deemed to have been paid in accordance with this Section 1201 which are to be redeemed on any date prior to their maturity, the City shall purchase or otherwise acquire any such Bonds and deliver such Bonds to the Trustee prior to their maturity date or redemption date, as the case may be, the Trustee shall immediately cancel all such Bonds so delivered; such delivery of Bonds to the Trustee shall be accompanied by directions from the City to the Trustee as to the manner in which such Bonds are to be applied against the obligation of the Trustee to pay or redeem Bonds deemed paid in accordance with this Section 1201. The directions given by the City to the Trustee referred to in the preceding sentences shall also specify the portion, if any, of such Bonds so purchased or delivered and cancelled to be applied against the obligation of the Trustee to pay Bonds deemed paid in accordance with this Section 1201 upon their maturity date or dates and the portion, if any, of such Bonds so purchased or delivered and cancelled to be applied against the obligation of the Trustee to redeem Bonds deemed paid in accordance with this Section 1201 on any date or dates prior to their maturity. In the event that on any date as a result of any purchases, acquisitions and cancellations of Bonds as provided in this Section 1201 the total amount of moneys and Defeasance Securities remaining on deposit with the Trustee under this Section 1201 is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of the remaining Bonds in order to satisfy subclause (b) of this paragraph 2 of Section 1201, the Trustee shall, if requested by the City, pay the amount of such excess to the City free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under this Resolution. Except as otherwise provided in this paragraph 3 of Section 1201 and in paragraph 4 through paragraph 8 of this Section 1201, neither Defeasance Securities nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price, if applicable, and interest on said Bonds; provided that any cash received from such principal or interest payments on such Defeasance Securities deposited with the Trustee, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the City as received by the Trustee, free and clear of any trust, lien or pledge securing said Bonds or otherwise existing under the Resolution, and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Defeasance Securities maturing at times and in amounts sufficient to pay when due the principal or Redemption Price, if applicable, and interest to become due on said Bonds on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the City, as received by the Trustee, free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under the Resolution.

4. For purposes of determining whether Variable Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of moneys, or Defeasance Securities and moneys, if any, in accordance with the second sentence of paragraph 3 of this Section 1201, the interest to come due on such Variable Rate Bonds on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated at the maximum rate permitted by the terms thereof; provided, however, that if on any date, as a result of such Variable Rate Bonds having borne interest at less than such maximum rate for any period, the total amount of moneys

and Defeasance Securities on deposit with the Trustee for the payment of interest on such Variable Rate Bonds is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of such Variable Rate Bonds in order to satisfy the second sentence of paragraph 3 of this Section 1201, the Trustee shall, if requested, by the City, pay the amount of such excess to the City free and clear of any trust, lien, pledge or assignment securing the Bonds or otherwise existing under the Resolution.

5. Option Bonds shall be deemed to have been paid in accordance with the second sentence of paragraph 3 of this Section 1201 only if, in addition to satisfying the requirements of clauses (a) and (c) of such sentence, there shall have been deposited with the Trustee moneys (including moneys withdrawn and deposited pursuant to paragraph 4 of Section 507 and paragraph 5 of Section 508) in an amount which shall be sufficient to pay when due the maximum amount of principal of and premium, if any, and interest on such Bonds which could become payable to the Holders of such Bonds upon the exercise of any options provided to the Holders of such Bonds; provided, however, that if, at the time a deposit is made with the Trustee pursuant to paragraph 2 of this Section 1201, the options originally exercisable by the Holder of an Option Bond are no longer exercisable, such Bond shall not be considered an Option Bond for purposes of this paragraph 5. If any portion of the moneys deposited with the Trustee for the payment of the principal of and premium, if any, and interest on Option Bonds is not required for such purpose the Trustee shall, if requested by the City, pay the amount of such excess to the City free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under the Resolution.

6. Defeasance Securities described in clause (f) of the definition thereof may be included in the Defeasance Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of paragraph 2 of Section 1201 only if the determination as to whether the moneys and Defeasance Securities to be deposited with the Trustee in order to satisfy the requirements of such clause (b) would be sufficient to pay when due either on the maturity date thereof or, in the case of any bonds to be redeemed prior to the maturity date thereof, on the redemption date or dates specified in any notice of redemption to be given by the Trustee or in the instructions to give a notice of redemption provided to the Trustee in accordance with paragraph 3 of Section 1201, the principal and Redemption Price, if applicable, and interest on the Bonds which will be deemed to have been paid as provided in paragraph 3 of Section 1201 is made both (i) on the assumption that the Defeasance Securities described in clause (f) were not redeemed at the option of the issuer prior to the maturity date thereof and (ii) on the assumptions that such Defeasance Securities would be redeemed by the issuer thereof at its option on each date on which such option could be exercised, that as of such date or dates interest ceased to accrue on such Defeasance Securities and that the proceeds of such redemption would not be reinvested by the Trustee.

7. In the event that after compliance with the provisions of paragraph 6 of Section 1201 the Defeasance Securities described in clause (f) of the definition thereof are included in the Defeasance Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of paragraph 3 of Section 1201 and any such Defeasance Securities are actually redeemed by the issuer thereof prior to their maturity date, then the Trustee at the direction of the City, provided that the aggregate of the moneys and Defeasance Securities to be held by the Trustee, taking into account any changes in redemption dates or instructions to give notice of redemption given to the Trustee by the City in accordance with paragraph 8 of Section 1201, shall at all times be sufficient to satisfy the requirements of clause (b) of paragraph 3 of Section 1201, shall reinvest the proceeds of such redemption in Defeasance Securities.

8. In the event that after compliance with the provisions of paragraph 6 of Section 1201 the Defeasance Securities described in clause (f) of the definition thereof are included in the

Defeasance Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of paragraph 3 of Section 1201, then any notice of redemption to be given by the Trustee and any set of instructions relating to a notice of redemption given to the Trustee may provide, at the option of the City, that any redemption date or dates in respect of all or any portion of the Bonds to be redeemed on such date or dates may at the option of the City be changed to any other permissible redemption date or dates and that redemption dates may be established for any Bonds deemed to have been paid in accordance with this Section 1201 upon their maturity date or dates at any time prior to the actual giving of any applicable notice of redemption in the event that all or any portion of any Defeasance Securities described in clause (f) of the definition thereof have been called for redemption pursuant to an irrevocable notice of redemption or have been redeemed by the issuer thereof prior to the maturity date thereof; no such change of redemption date or dates or establishment of redemption date or dates may be made unless taking into account such changed redemption date or dates or newly established redemption date or dates the moneys and Defeasance Securities on deposit with the Trustee including any Defeasance Securities deposited with the Trustee in connection with any reinvestment of redemption proceeds in accordance with paragraph 7 of Section 1201 pursuant to clause (b) of paragraph 3 of Section 1201 would be sufficient to pay when due the principal and Redemption Price, if applicable, and interest on all Bonds deemed to have been paid in accordance with paragraph 3 of Section 1201 which have not as yet been paid.

9. Anything in the Resolution to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any of the Bonds which remain unclaimed for six years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Fiduciary at such date, or for six years after the date of deposit of such moneys if deposited with the Fiduciary after the said date when such Bonds become due and payable, shall, at the written request of the City, be repaid by the Fiduciary to the City, as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall look only to the City for the payment of such Bonds; provided, however, that before being required to make any such payment to the City, the Fiduciary shall, at the expense of the City, cause to be published at least twice, at an interval of not less than 7 days between publications, in an Authorized Newspaper, a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than 30 days after the date of the first publication of such notice, the balance of such moneys then unclaimed will be returned to the City.

**SECTION 1202. Evidence of Signatures of Bondholders and Ownership of**

**Bonds.** 1. Any request, consent, revocation of consent or other instrument which the Resolution may require or permit to be signed and executed by the Bondholders may be in one or more instruments of similar tenor and shall be signed or executed by such Bondholders in person or by their attorneys appointed in writing. Proof of (i) the execution of any such instrument, or of an instrument appointing any such attorney, or (ii) the holding by any person of the Bonds, shall be sufficient for any purpose of the Resolution (except as otherwise therein expressly provided) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

The fact and date of the execution by any Bondholder or such Bondholder's attorney of such instruments may be proved by a guarantee of the signature thereon by a bank or trust company or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the person signing such request or other instrument acknowledged to such officer the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such

corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of such officer's authority.

2. The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be proved by the registry books.

3. Any request or consent by the owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done by the City or any Fiduciary in accordance therewith.

**SECTION 1203. Moneys Held for Particular Bonds.** The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto.

**SECTION 1204. Preservation and Inspection of Documents.** All documents received by any Fiduciary under the provisions of the Resolution shall be retained in its possession and shall be subject at all reasonable times to the inspection of the City, any other Fiduciary, and any Bondholder and their agents and their representatives, any of whom may make copies thereof.

**SECTION 1205. Parties Interested Herein.** Nothing in the Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the City, the Fiduciaries, each Qualified Hedging Contract Provider that has provided a Qualified Hedging Contract and the Holders of the Bonds any right, remedy or claim under or by reason of the Resolution or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and agreements in the Resolution contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Fiduciaries, each such Qualified Hedging Contract Provider and the Holders of the Bonds.

**SECTION 1206. No Recourse on the Bonds.** No officer, agent or employee of the City shall be individually or personally liable for the payment of the principal or Redemption Price or interest on the Bonds.

**SECTION 1207. Publication of Notice; Suspension of Publication.** 1. Any publication to be made under the provisions of the Resolution in successive weeks or on successive dates may be made in each instance upon any business day of the week and need not be made in the same Authorized Newspaper for any or all of the successive publications but may be made in different Authorized Newspapers.

2. If, because of the temporary or permanent suspension of the publication or general circulation of any of the Authorized Newspapers or for any other reason, it is impossible or impractical to publish any notice pursuant to the Resolution in the manner herein provided, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient publication of such notice.

**SECTION 1208. Action by Credit Enhancer When Action by Holders of the Bonds Required.** Except as otherwise provided in a Supplemental Resolution authorizing Bonds for which Credit Enhancement is being provided, if not in default in respect of any of its obligations with respect to Credit Enhancement for the Bonds of a Series, or a maturity within a Series, the Credit Enhancer for, and not the actual Holders of, the Bonds of a Series, or a maturity within a Series, for which such Credit Enhancement is being provided, shall be deemed to be the Holder of Bonds of any Series, or



maturity within a Series, as to which it is the Credit Enhancer at all times for the purpose of (i) giving any approval or consent to the effectiveness of any Supplemental Resolution or any amendment, change or modification of the Resolution as specified in Sections 1003, 1102, 1103 and 1104 or any other provision hereof, which requires the written approval or consent of Holders; provided, however, that the provisions of this Section shall not apply to any change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto and (ii) giving any approval or consent, exercising any remedies or taking any other action in accordance with the provisions of Article VIII hereof.

**SECTION 1209. Severability of Invalid Provisions.** If any one or more of the covenants or agreements provided in the Resolution on the part of the City or any Fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of the Resolution.

**SECTION 1210. Holidays.** If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in the Resolution, shall be a legal holiday or a day on which banking institutions in the city in which is located the principal office of the Trustee are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in the Resolution, and no interest shall accrue for the period after such nominal date.

**SECTION 1211. Representations and Covenants Regarding the Pledge of the Resolution.** The City represents that, pursuant to the Act, the Resolution creates a valid and binding lien on the Trust Estate, subject only to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth herein, for the benefit of the Holders of the Bonds, as security for the payment of the Bonds, to the extent set forth herein, enforceable in accordance with the terms hereof.

The City has not heretofore made or granted a pledge or assignment of, lien on or security interest in the Trust Estate that ranks on a parity with or prior to the lien and pledge made or granted in the Resolution. The City shall not hereafter make or grant a pledge or assignment of, lien on or security interest in such Trust Estate that ranks prior to or on a parity with the lien and pledge made or granted in the Resolution, except as expressly permitted thereby.

**SECTION 1212. Repeal of Inconsistent Resolutions.** Any resolution of the City, and any part of any resolution, inconsistent with the Resolution is hereby repealed to the extent of such inconsistency.

## ARTICLE XIII

### EFFECTIVE DATE; DEBT SERVICE RESERVE ACCOUNT UNDER ORIGINAL RESOLUTION

**SECTION 1301. Effective Date.** This Amended and Restated Utilities System Revenue Bond Resolution shall become effective on the Effective Date, upon the satisfaction of the conditions to its effectiveness set forth in Articles X and XI of Original Resolution.

**SECTION 1302. Debt Service Reserve Account under Original Resolution.**

On the Effective Date, the Trustee shall, upon the written request of the City, transfer amounts accumulated in the Debt Service Reserve Account in the Debt Service Fund with respect to the Prior Bonds to the Utilities Plant Improvement Fund.

Amended and Restated Utilities System Revenue Bond Resolution approved and adopted by the City of Gainesville, Florida on January 30, 2003.

**THE CITY OF GAINESVILLE, FLORIDA**

By \_\_\_\_\_  
Name:  
Title:

Attest:

\_\_\_\_\_  
Clerk of the Commission

Approved as to Form and Legality:

\_\_\_\_\_  
Office of the City Attorney