

**ORDINANCE NO. O-17-19**

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF WATERWORKS SYSTEM REFUNDING REVENUE BONDS, SERIES 2017, OF THE CITY OF WILMINGTON, OHIO, UNDER ARTICLE XVIII OF THE OHIO CONSTITUTION, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$12,350,000 FOR THE PURPOSE OF PAYING THE COST OF REFUNDING CERTAIN OUTSTANDING OBLIGATIONS HERETOFORE ISSUED TO REFUND PRIOR OBLIGATIONS OR TO IMPROVE THE UTILITY; AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL TRUST AGREEMENT AND A BOND PURCHASE AGREEMENT; AUTHORIZING AND APPROVING CERTAIN OFFERING DOCUMENTS RELATING TO THE ORIGINAL ISSUANCE OF THE SERIES 2017 BONDS; AUTHORIZING A CONTINUING DISCLOSURE AGREEMENT; AUTHORIZING THE CALL FOR OPTIONAL REDEMPTION OF BONDS TO BE REFUNDED, AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Wilmington, Ohio (the "City"), now owns and operates, as a public utility, a municipal waterworks system (the "Utility"), the services of which are supplied to users within and without the corporation limits of the City; and

WHEREAS, pursuant to Ordinance No. 3683 (together with the Certificate of Award authorized thereby, the "1996 Authorizing Legislation"), and an Indenture of Mortgage and Security Agreement dated as of July 1, 1996, between the City and Peoples Bank, Wilmington, Ohio (as successor trustee to The National Bank and Trust Company, Wilmington, Ohio), as trustee (the "Prior Indenture Trustee"), and recorded at Volume 0205, Page 447, of the Official Records of Clinton County (the "1996 Indenture"), the City issued \$6,775,000 First Mortgage Waterworks System Revenue Bonds, dated July 1, 1996 (the "Series 1996 Bonds"); and

WHEREAS, pursuant to Ordinance No. 3869 (together with the Certificate of Award authorized thereby, the "1998 Authorizing Legislation"), and the 1996 Indenture as supplemented by a First Supplemental Indenture of Mortgage and Security Agreement dated as of June 15, 1998, between the City and the Prior Indenture Trustee, and recorded at Volume 0270, Page 3, of the Official Records of Clinton County (the "First Supplemental Indenture"), the City issued \$9,995,000 of its First Mortgage Waterworks System Revenue Bonds, 1998 Series, dated June 15, 1998 (the "Series 1998 Bonds"); and

WHEREAS, pursuant to Ordinance No. 4489 (together with the Certificate of Determination authorized thereby, the "2005 Authorizing Legislation"), and the 1996 Indenture as then supplemented and as further supplemented by a Second Supplemental Indenture of Mortgage and Security Agreement dated as of February 15, 2005, between the City and the Prior Indenture Trustee, and recorded at Volume 0599, Page 231, of the Official Records of Clinton County (the "Second Supplemental Indenture"), the City issued \$5,525,000 of its First Mortgage Waterworks System Refunding Revenue Bonds, 2005 Series, dated February 15, 2005 (the "Series 2005 Bonds"), refunding particular Series 1996 Bonds; and

WHEREAS, pursuant to Ordinance No. 4669 (together with the Certificate of Determination authorized thereby, the "2007 Authorizing Legislation"), and the 1996 Indenture as then supplemented and as further supplemented by a Third Supplemental Indenture of Mortgage and Security Agreement dated as of August 15, 2007, between the City and the Prior Indenture Trustee, and recorded at Volume 706, Page 842 of the Official Records of Clinton County (the "Third Supplemental Indenture"), the City issued \$9,330,000 of its First Mortgage Waterworks System Refunding and Improvement Revenue Bonds, 2007 Series, dated August 15, 2007 (the "Series 2007 Bonds"), refunding particular Series 1998 Bonds; and

WHEREAS, the 1996 Indenture as supplemented and amended by the First Supplemental Indenture, the Second Supplemental Indenture and the Third Supplemental Indenture, is referred to herein as the "Prior Indenture;" and

WHEREAS, the then outstanding Series 2005 Bonds were refunded with the proceeds of general obligation (limited tax) bond anticipation notes issued in 2015 (the "Series 2015 Water Notes"), together with lawfully available funds; and

WHEREAS, at the maturity of the Series 2015 Water Notes, the City issued \$2,120,000 Waterworks System Refunding General Obligation (Limited Tax) Bond Anticipation Notes, Series 2016, dated June 14, 2016 (the “*Series 2016 Water Notes*”), which will mature on June 13, 2017 and must be discharged at maturity; and

WHEREAS, pursuant to Ordinance No. O-17-19 (the “*General Bond Ordinance*”) passed by the Council of the City (the “*Council*”) this date, the City approved the form of and authorized a Master Trust Agreement to be dated as of the date of delivery of the Series 2017 Bonds authorized hereby (the “*Master Trust Agreement*”), by and between the City and U.S. Bank National Association, Cincinnati, Ohio, as Trustee (the “*Trustee*”); and

WHEREAS, pursuant to the General Bond Ordinance, the Council authorized the issuance from time to time of revenue bonds of the City to provide moneys (i) for the purpose of paying the costs of improving the Utility and for the purpose of refunding indebtedness issued to pay the costs of improving the Utility, (ii) to refund any or all of the revenue bonds, (iii) to fund a bond reserve fund, and (iv) to pay the costs of issuance of the revenue bonds, such revenue bonds to be secured under the Master Trust Agreement, as the same may be supplemented and amended from time to time by supplemental trust agreements (the “*Trust Agreement*”); and

WHEREAS, terms used herein with initial capitalization and not otherwise defined have meanings assigned thereto in the Trust Agreement; and

WHEREAS, Financial Security Assurance Inc., now known as Assured Guaranty Municipal Corp., issued its Municipal Bond Insurance Policy (“*2007 Insurance Policy*”) insuring the payment when due of the principal of and interest on the Series 2007 Bonds; and

WHEREAS, Financial Security Assurance Inc., now known as Assured Guaranty Municipal Corp., provided Municipal Bond Debt Service Reserve Insurance (“*2007 Surety Bond*”) insuring the Maximum Reserve Requirement (as defined in the Prior Indenture) for the Series 2007 Bonds; and

WHEREAS, so long as no principal or interest due on Bonds issued pursuant to the Prior Indenture shall have been paid by an insurer pursuant to a municipal bond insurance policy, Section 12.02 of the Prior Indenture provides for defeasance of Bonds issued thereunder, to-wit, the lien, rights, and interest created by the Prior Indenture may be terminated as to particular Bonds by deposit by the City with the Prior Indenture Trustee for the account of the holder or holders thereof of such direct obligations of the United States of America of the character and sufficiency as shall be satisfactory to the Prior Indenture Trustee and as shall be sufficient, in time and amount, with due regard to the interest to become due on such direct obligations, to pay principal, interest and any premium with respect to such Bonds due or to become due; and

WHEREAS, Section 12.02 of the Prior Indenture further provides that with respect to such particular Bonds, the principal and interest requirements shall no longer be considered in calculating the Maximum Reserve Requirement or determining compliance with any provision of the Authorizing Legislation; and

WHEREAS, at this date no Series 1996 Bonds, Series 1998 Bonds or Series 2005 Bonds are outstanding under the Prior Indenture; and

WHEREAS, no payments of principal or interest due on Bonds issued under the Prior Indenture have been paid under any municipal bond insurance policy, including the 2007 Insurance Policy or the 2007 Surety Policy; and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to refund at a lower rate of interest all or a portion of the City’s outstanding Series 2007 Bonds (the “*Outstanding Series 2007 Bonds*”), which Outstanding Series 2007 Bonds maturing after June 15, 2017, are subject to redemption in whole or in part at the option of the City prior to maturity on June 15, 2017 or on any date thereafter at the redemption price of 100% plus accrued interest to the date of redemption, and to pay any expenses relating to that refunding; and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to issue and sell its Waterworks System Refunding Revenue Bonds, Series 2017 (the “*Series 2017 Bonds*”), to provide moneys to (a) refund all of the Outstanding Series 2007 Bonds

maturing on June 15 in the years 2018 through 2029 (the “*Refunded Series 2007 Bonds*”), (b) discharge at maturity on June 13, 2017, together with other lawfully available funds of the City, the Series 2016 Water Notes (the Series 2016 Water Notes and the Refunded Series 2007 Bonds, the “*Prior Obligations*”), and (c) pay Costs of Issuance of the Series 2017 Bonds, all in accordance with the Trust Agreement and pursuant to the Act (as defined herein); and

WHEREAS, the Act authorizes the City to issue revenue bonds to refund, in advance of the dates upon which they mature, the Prior Obligations; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILMINGTON, STATE OF OHIO, that:

Section 1. Definitions: Interpretations and References.

(a) Definitions. Where used in the Bond Proceedings, and in the Series 2017 Bonds, and in addition to words and terms defined in the Trust Agreement to which reference is hereby made, the following words and terms shall have the following meanings unless otherwise therein provided or unless the context or use clearly indicates another or different meaning or intent:

“*Act*” means the Ohio Constitution, in particular Article XVIII of the Ohio Constitution, and any applicable Ohio laws.

“*Authorized Denominations*” means, with respect to Series 2017 Bonds, unless otherwise stated in the Series 2017 Certificate of Award, the denomination of \$5,000 or any integral multiple thereof. Notwithstanding the foregoing, if required by the Rule, “*Authorized Denominations*” shall mean the denomination of \$100,000 or integral multiples of \$5,000 in excess of \$100,000.

“*Authorized Officer*” means any officer or employee of the City authorized by or pursuant to the Act, the Bond Proceedings or City ordinance or resolution to perform the particular act or sign the particular document, and if there is no specific authorization means the Mayor, the President of Council, the City Auditor, the Deputy City Auditor, the Clerk of Council, or the Law Director.

“*Bond Proceedings*” means, with respect to the Series 2017 Bonds, the Trust Agreement, the General Bond Ordinance to the extent applicable, the Series 2017 Bond Legislation, and other ordinances, resolutions, Credit Support Instruments, and agreements, and amendments of and supplements to or any combination of them, authorizing or providing for the terms and conditions applicable to, or providing for the security for, liquidity or sale of, or the terms contained in, the Series 2017 Bonds.

“*Bond Register*” means the books kept and maintained by the Bond Registrar pursuant to the Trust Agreement for the registration, exchange and transfer of the Series 2017 Bonds.

“*Bond Registrar*” means the Trustee acting as such with respect to the Series 2017 Bonds.

“*Bond Service Charges*” means, with respect to the Series 2017 Bonds, the principal (as payable at stated maturity, or by acceleration or otherwise), interest and any redemption premium required to be paid by the City on the Series 2017 Bonds, and includes any Mandatory Sinking Fund Requirements with respect to the Series 2017 Bonds.

“*book entry form*” or “*book entry system*” means a form or system under which (a) the ownership of beneficial interests in the Series 2017 Bonds and the principal of and interest and any premium on the Series 2017 Bonds may be transferred only through a book entry, and (b) physical Series 2017 Bond certificates in fully registered form are issued by the City and payable only to a Securities Depository or its nominee as registered owner, with the certificates deposited with and maintained in the custody of the Securities Depository or its designated agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in those Series 2017 Bonds and that principal and interest.

“*Clerk*” or “*Clerk of Council*” means the Clerk of Council of the City.

“*Closing Date*” means the date of physical delivery to the Original Purchaser of, and payment of the purchase price for, the Series 2017 Bonds.

“*Code*” means the Internal Revenue Code of 1986, as amended, together with all applicable Treasury Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, any amendments of, or successor provisions to, the foregoing, and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a section of the Code includes any applicable successor section or provision and such applicable Treasury Regulations, rulings, announcements, notices, procedures and determinations pertinent to that section.

“*Continuing Disclosure Agreement*” means the continuing disclosure agreement authorized by Section 4(c) hereof, which, if required by the Rule, shall be entered into by the City for the benefit of the holders and beneficial owners of the Series 2017 Bonds, as it may be modified from the form on file with the Clerk of Council and executed by the Mayor or the President of Council and by the City Auditor or the Deputy City Auditor, all in accordance with Section 4(c).

“*Credit Support Instrument*” means, with respect to the Series 2017 Bonds, an insurance policy, including a policy of bond insurance, letter of credit or other credit enhancement, support or liquidity device provided pursuant to an agreement to which the City is a party and which is used to enhance the security or liquidity of the Series 2017 Bonds or to provide, in whole or in part, the Required Reserve, if any, for the Series 2017 Bonds.

“*First Supplemental Trust Agreement*” means the First Supplemental Trust Agreement, by and between the City and the Trustee, dated as of the date set forth in the Series 2017 Certificate of Award and including the Series 2017 Bond Legislation, as it may be modified from the form on file with the Clerk of Council and executed by the Mayor or the President of Council and by the City Auditor or the Deputy City Auditor in accordance with Section 11 hereof

“*Interest Payment Dates*” means, unless otherwise provided in the Series 2017 Certificate of Award, June 1 and December 1 of each year, commencing on the date stated in the Series 2017 Certificate of Award.

“*Mandatory Redemption Date*” shall have the meaning set forth in Section 3(c).

“*Mandatory Sinking Fund Requirements*” shall have the meaning set forth in Section 3(f)(1).

“*Original Purchaser*” means Stifel, Nicolaus & Company, Incorporated.

“*Participant*” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies, and clearing corporations.

“*Principal Payment Dates*” means, unless otherwise provided in the Series 2017 Certificate of Award, June 1 and December 1 in each of the years as determined in the Series 2017 Certificate of Award; *provided* that the first Principal Payment Date shall occur no later than the earliest maturity date of the Refunded Series 2007 Bonds, and *provided further* that in no case shall the final Principal Payment Date be later than December 1, 2035, all of which determinations shall be made by the Mayor or the President of Council and by the City Auditor or Deputy City Auditor in the Series 2017 Certificate of Award in such manner as to be in the best interest of and financially advantageous to the City.

“*Purchase Agreement*” means the Bond Purchase Agreement, by and between the City and the Original Purchaser of the Series 2017 Bonds, as it may be modified from the form on file with the Clerk of Council and executed by the Mayor or the President of Council and by the City Auditor or Deputy City Auditor in accordance with Section 4 hereof.

“*Redemption Date*” means the date designated by the Mayor or the President of Council and by the City Auditor or Deputy City Auditor in the Series 2017 Certificate of Award as the date on which the Refunded Series 2007 Bonds shall be redeemed in accordance with Section 10.

“*Regulations*” means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

“*Required Reserve*” means for the Series 2017 Bonds, as of the date of any calculation, the amount, if any, designated as such for the Series 2017 Bonds in or pursuant to the First Supplemental Trust Agreement to be on deposit in or credited to an account in the Water Bond Reserve Fund, which amount may take the form of a Credit Support Instrument provided for or pursuant to the First Supplemental Trust Agreement.

“*Rule*” means Rule 15c2-12 promulgated by the SEC pursuant to the Securities Exchange Act of 1934, as amended.

“*SEC*” means the Securities and Exchange Commission.

“*Securities Depository*” or “*Depository*” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in Series 2017 Bonds or the principal of and interest on Series 2017 Bonds, and to effect transfers of Series 2017 Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“*Serial Bonds*” means those Series 2017 Bonds designated as such and maturing on the dates set forth in the Series 2017 Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“*Series 2017 Bond Legislation*” means the General Bond Ordinance to the extent applicable, the Series 2017 Bond Ordinance and the Series 2017 Certificate of Award authorized thereby.

“*Series 2017 Bond Ordinance*” means this Ordinance.

“*Series 2017 Bonds*” means the Waterworks System Refunding Revenue Bonds, Series 2017, of the City issued pursuant to the General Bond Ordinance to the extent applicable, the Series 2017 Bond Legislation, the Trust Agreement, and the Act.

“*Series 2017 Certificate of Award*” means the Certificate of Award with respect to the Series 2017 Bonds authorized by Section 4, to be executed by the Mayor or the President of Council and by the City Auditor or Deputy City Auditor, setting forth and determining those terms or other matters pertaining to the Series 2017 Bonds and their issuance, sale and delivery as the Series 2017 Ordinance requires or authorizes to be set forth or determined therein.

“*Term Bonds*” means those Series 2017 Bonds designated as such and maturing on the date or dates set forth in the Series 2017 Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

“*Trustee*” means U.S. Bank National Association, Cincinnati, Ohio, a national banking association, as initial Trustee under the Trust Agreement, including the First Supplemental Trust Agreement, and until a successor Trustee shall have become such pursuant to the terms of the Trust Agreement and, thereafter, “*Trustee*” shall mean the successor Trustee.

“*Water Bond Reserve Fund*” means the Water Bond Reserve Fund created in Section 5.01 of the Master Trust Agreement.

“*Water Bond Service Fund*” means the Bond Service Fund created in Section 5.01 of the Master Trust Agreement.

“*Water Project Fund*” means the Project Fund created in Section 5.01 of the Master Trust Agreement.

“*Water Rebate Fund*” means the Rebate Fund created in Section 5.01 of the Master Trust Agreement.

“*Water Revenue Fund*” means the Revenue Fund created in Section 5.01 of the Master Trust Agreement.

(b) Interpretations and References. Any reference in the Bond Proceedings to the City, or to its Council or officers or to other public bodies, boards, commissions, departments, institutions, agencies, bodies, entities or officers, shall include those that succeed to their functions, duties or responsibilities pursuant to or by operation of law or otherwise are lawfully performing their functions.

Any reference in the Bond Proceedings to a section or provision of the Revised Code or to the Act or to the laws of Ohio or City ordinances shall include that section or provision and the Act and those laws and ordinances as from time to time amended, modified, revised, supplemented or superseded. No amendment, modification, revision, supplement or superseding section or provision shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the City, the holders, the Trustee, the Bond Insurer, if any (or any future bond insurer), or the Bond Registrar under the Trust Agreement, the Series 2017 Bond Legislation, the Series 2017 Bonds or any other instrument or document entered into in connection with any of the foregoing, including without limitation, any alteration of the obligation to pay Bond Service Charges in the amount and manner, at the times and from the sources provided in the Bond Proceedings and the Series 2017 Bonds, except as permitted in the Trust Agreement.

Unless the context otherwise indicates, words in the Bond Proceedings importing the singular number include the plural number and vice versa.

References in this Ordinance to a Section, unless otherwise stated, are to a Section of this Ordinance. The terms "*hereof*", "*herein*", "*hereby*", "*hereto*", "*hereunder*", and similar terms, mean and refer to this Ordinance.

Section 2. Determinations by Council. This Council finds and determines as follows:

(a) Issuance of Series 2017 Bonds. It is necessary and proper and in the best interest of the City to, and the City shall, issue the Series 2017 Bonds in the maximum principal amount of \$12,350,000 for the purpose of providing moneys, together with other lawfully available funds of the City, to (i) refund those Series 2007 Bonds outstanding in the principal amount of \$8,645,000 and maturing on June 15 in the years 2018 through 2029, which were issued for the purpose of (a) advance refunding a portion of the Series 1998 Bonds, (b) constructing additional improvements to the Utility, and (c) paying other lawful costs incident to the issuance of the Series 2007 Bonds; (ii) discharge at maturity on June 13, 2017, the Series 2016 Water Notes; and (iii) pay Costs of Issuance of the Series 2017 Bonds. The aggregate principal amount of Series 2017 Bonds to be issued, not exceeding the aforesaid maximum principal amount, shall be an amount determined in the Series 2017 Certificate of Award to be the aggregate principal amount that is necessary for the purpose taking into account any discount from or premium to the aggregate principal amount of the Series 2017 Bonds at which they are sold to the Original Purchaser, in order to effect the purpose for which the Series 2017 Bonds are to be issued, taking into account the costs of refunding the Refunded Series 2007 Bonds and paying Costs of Issuance of the Series 2017 Bonds. The Series 2017 Bonds shall be issued under authority of the Act and pursuant to the Series 2017 Bond Legislation, and shall be secured by a lien upon the Net Revenues and the Pledged Funds, to the extent and with the exceptions provided in the Trust Agreement and by covenant of the City to prescribe and charge such rates, charges and rentals for the services and facilities of the Utility and to restrict Operating Expenses as shall meet the rate covenants set forth in the Trust Agreement; provided, however, that nothing in the Series 2017 Bond Legislation shall be construed as pledging the general credit of the City to the payment of the Series 2017 Bonds, or any part thereof, or the interest or any premium thereon.

(b) Utility Operation. The Utility shall be operated as a municipal public utility under Article XVIII of the Ohio Constitution.

(c) Utility Rates. Rates, charges and rentals for the services and facilities of the Utility shall be prescribed and charged (and Operating Expenses shall be so restricted) as shall result in Net Revenues Available for Bond Service Charges in each Fiscal Year not less than the greater of (i) 110% of the amount required to be paid into the Water Bond Service Fund from Net Revenues during the then current Fiscal Year and (ii) the sum of the amount required for the then current Fiscal Year (A) to be paid into the Water Bond Service Fund from Net Revenues and (B) to pay principal of and interest on any Other Utility Indebtedness, and in each case, less

any amount of interest for the then current Fiscal Year that has been capitalized. In determining the amounts required to be paid into the Water Bond Service Fund, the amount on deposit in the Water Bond Reserve Fund shall be disregarded. "Net Revenues" means the Revenues less Operating Expenses, as defined and described in the Trust Agreement.

Section 3. Terms and Provisions of the Series 2017 Bonds.

(a) General. The Series 2017 Bonds (unless otherwise provided in the Series 2017 Certificate of Award or the First Supplemental Trust Agreement) shall be issued in one lot and only as Registered Bonds in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date, substantially in the form to be set forth in the First Supplemental Trust Agreement, and may be issued to a Depository under a book entry system as provided herein and in the Trust Agreement. The terms, provisions, denominations and principal maturities of, redemption provisions applicable to, and the interest rates to be borne by, the Series 2017 Bonds shall be those set forth in the Series 2017 Certificate of Award.

The Series 2017 Bonds shall, unless in book entry form, be exchangeable for Series 2017 Bonds of Authorized Denominations, as provided in the Trust Agreement; shall be numbered in such manner as determined by the Trustee in order to distinguish each Series 2017 Bond from any other Series 2017 Bond; shall be issued in Authorized Denominations; shall be subject to optional redemption in the amounts, upon the conditions, and at the times and prices, and may be subject to Mandatory Sinking Fund Redemption in the amounts and at the times and prices, all as set forth in or provided by the Series 2017 Bond Legislation and upon the conditions set forth in the Trust Agreement. Bond Service Charges on the Series 2017 Bonds shall be payable as provided in the Trust Agreement, in each instance without deduction for the services of the Paying Agent.

(b) Interest Rates and Payment Dates. The Series 2017 Bonds shall bear interest at the rate or rates per year (computed on the basis of a 360-day year consisting of twelve 30-day months), as shall be determined by the Mayor or the President of Council and by the City Auditor or Deputy City Auditor, subject to subsection (d) of this Section, in the Series 2017 Certificate of Award, provided that the true interest cost to the City shall not exceed four and one-half percent (4-1/2%) per annum, payable semiannually on the Interest Payment Dates. Interest on the Series 2017 Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. Each Series 2017 Bond shall bear interest in accordance with the Trust Agreement, from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its date.

(c) Principal Payment Schedule. The Series 2017 Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Requirements on the Principal Payment Dates in principal amounts as shall be determined by the Mayor or the President of Council and the City Auditor or Deputy City Auditor, subject to subsection (d) of this Section, in the Series 2017 Certificate of Award, which determination shall be consistent with the best interest of and financial advantages to the City.

Consistent with the foregoing and in accordance with a determination which is in the best interest of and financially advantageous to the City, the Mayor or the President of Council and the City Auditor or Deputy City Auditor shall specify in the Series 2017 Certificate of Award (i) the aggregate principal amount of Series 2017 Bonds to be issued as Serial Bonds, the Principal Payment Date or Dates on which those Series 2017 Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date, (ii) the aggregate principal amount of Series 2017 Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Series 2017 Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (each a "*Mandatory Redemption Date*") and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Requirements on each Mandatory Redemption Date.

(d) Conditions for Establishment of Interest Rates and Principal Payment Dates and the Amounts. The rate or rates of interest per year to be borne by the Series 2017 Bonds and the

principal amount of Series 2017 Bonds maturing or payable pursuant to Mandatory Sinking Fund Requirements on each Principal Payment Date, shall be such as to demonstrate a net present value savings to the City due to the refunding of the Refunded Series 2007 Bonds, after taking into account all expenses related to that refunding and the issuance of the Series 2017 Bonds, of at least 3%.

(e) Payment of Bond Service Charges. The Bond Service Charges on the Series 2017 Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Trustee as Paying Agent. Principal of and any premium on the Series 2017 Bonds shall be payable when due upon presentation and surrender of the Series 2017 Bonds at the designated corporate trust office of the Trustee in accordance with the Trust Agreement. Interest on a Series 2017 Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Series 2017 Bond was registered, and to that person's address appearing, on the Bond Register maintained for the City by the Trustee at the close of business on the 15<sup>th</sup> day of the calendar month next preceding that Interest Payment Date in accordance with the Trust Agreement. Notwithstanding the foregoing, if and so long as the Series 2017 Bonds are issued in a book entry system, principal of and interest and any premium on the Series 2017 Bonds shall be payable in the manner provided in any agreement entered into by the City Auditor or Deputy City Auditor, in the name and on behalf of the City, in connection with the book entry system.

(f) Redemption Provisions. The Series 2017 Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Series 2017 Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those Dates, for which provision is made in the Series 2017 Certificate of Award (such Dates and amounts, being referred to as the "Mandatory Sinking Fund Requirements").

The aggregate of the moneys to be deposited in the Principal Payment Account of the Water Bond Service Fund pursuant to the Trust Agreement for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that Date the principal amount of Term Bonds payable on that Date pursuant to the Mandatory Sinking Fund Requirements (less the amount of any credit as hereinafter provided).

The City shall have the option to deliver to the Trustee for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the City Auditor, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 45<sup>th</sup> day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Trustee a certificate, signed by an Authorized Officer, setting forth the extent of the credit to be applied and the Mandatory Sinking Fund Requirement to be credited. The Series 2017 Bonds upon which that certificate is based shall be delivered to the Trustee for cancellation on the applicable Mandatory Redemption Date. If the certificate is not timely furnished to the Trustee or the Series 2017 Bonds are not so delivered, the Mandatory Sinking Fund Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current Mandatory Sinking Fund Requirement (and corresponding mandatory redemption obligation), as specified by the City Auditor, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Requirements) or purchased for cancellation and canceled by the Trustee, to the extent not applied theretofore as a credit against any redemption obligation.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Trustee at 100% of the principal amount thereof against the designated or then current Mandatory Sinking Fund Requirement (and corresponding mandatory redemption obligation), as specified by the City Auditor, for Term Bonds stated to mature on the same



Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled. Any excess of that amount over the designated or the then current Mandatory Sinking Fund Requirement shall be credited against subsequent mandatory redemption obligations in the order directed by the City.

(ii) Optional Redemption. The Series 2017 Bonds of the maturities and interest rates specified in the Series 2017 Certificate of Award (if any are so specified) shall be subject to optional redemption by and at the sole option of the City, in whole or in part in integral multiples of \$5,000 (unless otherwise specified in the Series 2017 Certificate of Award), on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Mayor or the President of Council and by the City Auditor or Deputy City Auditor in the Series 2017 Certificate of Award; *provided* that the redemption price for any optional redemption date shall not be greater than 103%.

(g) Execution and Authentication of Series 2017 Bonds. The Series 2017 Bonds shall be signed by the Mayor or the President of Council and by the City Auditor or Deputy City Auditor, *provided* that one or both of such signatures may be a facsimile. The Series 2017 Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the City Auditor, shall be numbered as determined by the City Auditor in order to distinguish each Series 2017 Bond from any other Series 2017 Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to the Act, the General Bond Ordinance, the Series 2017 Bond Legislation and the Trust Agreement.

No Series 2017 Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond Proceedings unless and until the certificate of authentication printed on the Series 2017 Bond is signed by the Trustee as authenticating agent as provided in the Trust Agreement. Authentication by the Trustee shall be conclusive evidence that the Series 2017 Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Trustee or by any person acting as an agent for the Trustee and approved by the City Auditor or Deputy City Auditor on behalf of the City. The same person need not sign the certificate of authentication on all of the Series 2017 Bonds.

(h) Authorization of Bond Rating and Bond Insurance. If, in the judgment of the City Auditor, the filing of applications for a rating on the Series 2017 Bonds by one or more Rating Services, and/or for a policy of municipal bond insurance or other Credit Support Instrument relating to the Series 2017 Bonds to better assure the payment of Bond Service Charges on the Series 2017 Bonds, are necessary or desirable for marketing purposes, the Mayor and the City Auditor are authorized to prepare and submit either or both of those applications, to provide such information as may be required in support of them and to provide further for the payment of the cost of such a rating and/or policy (or other Credit Support Instrument) payable by the City from the proceeds of sale of the Series 2017 Bonds, which money is appropriated hereby for that purpose. The City Auditor is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, that the City Auditor determines to be necessary in connection with obtaining such bond insurance.

(i) Book Entry Form. Notwithstanding any other provisions of the Series 2017 Bond Legislation, if the Mayor or the President of Council and the City Auditor or Deputy City Auditor determine in the Series 2017 Certificate of Award that it is in the best interest of and financially advantageous to the City, the Series 2017 Bonds may be issued in book entry form in accordance with the following provisions of this Section. The Series 2017 Bonds may be issued to a Securities Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Series 2017 Bonds shall be issued in the form of a single, fully Registered Bond representing each maturity, and, if applicable, each interest rate within a maturity, and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository or its designated agent for that purpose, which may be the Trustee; (ii) the beneficial owners of Series 2017 Bonds in book entry form shall have no right to receive Series 2017 Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in Series 2017 Bonds in book entry form shall be shown by

book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Series 2017 Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Securities Depository determines not to continue to act as a Depository for the Series 2017 Bonds for use in a book entry system, the City Auditor and the Trustee may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the City Auditor and the Trustee do not or are unable to do so, the City Auditor and the Trustee, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Series 2017 Bonds from the Depository, and shall cause Series 2017 Bond certificates in registered form and Authorized Denominations to be authenticated by the Trustee and delivered to the assignees of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The City Auditor and the Deputy City Auditor are each hereby authorized and directed, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City, that the City Auditor determines to be necessary in connection with the book entry system for the Series 2017 Bonds, after determining (as evidenced by his/her signing) that the signing thereof will not endanger the funds or securities of the City under the Trust Agreement.

Section 4. Sale of Series 2017 Bonds; Official Statement; Private Placement Memorandum; Continuing Disclosure.

(a) General. The Series 2017 Bonds are awarded and sold to the Original Purchaser, in accordance with the Purchase Agreement and at a purchase price, not less than 97% of the aggregate principal amount of the Series 2017 Bonds, as shall be determined in the Series 2017 Certificate of Award, plus accrued interest on the aggregate principal amount of the Series 2017 Bonds from their date to the date of delivery of and payment for them, and shall be awarded with and upon such other terms as are required or authorized by this Ordinance to be specified in the Series 2017 Certificate of Award, in accordance with law, the provisions of this Ordinance and the Purchase Agreement.

For the purpose of implementing the provisions of the Series 2017 Bond Legislation, the Series 2017 Certificate of Award shall be executed by both the Mayor or the President of Council and by the City Auditor or Deputy City Auditor and each is authorized and directed to sign the Series 2017 Certificate of Award selling the Series 2017 Bonds to the Original Purchaser at the price established therein and in accordance with the Series 2017 Bond Legislation, and to evidence that sale and the further terms and provisions of that sale and the Series 2017 Bonds by completing, signing and delivering that Series 2017 Certificate of Award. A counterpart thereof shall be delivered to the Clerk of Council promptly after its execution, and shall be included in the First Supplemental Trust Agreement as part thereof. No ratification by this Council of the actions taken by the Mayor or the President of Council and by the City Auditor or Deputy City Auditor in executing the Series 2017 Certificate of Award shall be required.

The Mayor or the President of Council and the City Auditor or the Deputy City Auditor shall sign and deliver, in the name and on behalf of the City, the Purchase Agreement between the City and the Original Purchaser, in substantially the form as is now on file with the Clerk of Council, providing for the sale to, and the purchase by, the Original Purchaser of the Series 2017 Bonds. The Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with the Series 2017 Bond Legislation and not substantially adverse to the City and that are approved by the Mayor or the President of Council and by the City Auditor or Deputy City Auditor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Purchase Agreement or amendments thereto.

Having due regard to the best interests of the City, there shall be further determined in the Series 2017 Certificate of Award or, as appropriate, in the Trust Agreement, consistent with the provisions of the Series 2017 Bond Ordinance, (i) the date of the Series 2017 Bonds, (ii) the aggregate principal amount of the Series 2017 Bonds, (iii) the aggregate principal amount and principal maturities of the Series 2017 Bonds to be issued as Serial Bonds or as Term Bonds, the

Principal Payment Dates on which those Series 2017 Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date, and as to any Term Bonds the Principal Payment Date(s) on which Term Bonds shall be subject to Mandatory Sinking Fund Redemption and the principal amount that shall be payable pursuant to Mandatory Sinking Fund Requirements on each Mandatory Redemption Date in accordance with the provisions of the Trust Agreement, (iv) the dates and prices upon and at which any Series 2017 Bonds shall be subject to any optional redemption, (v) the rate or rates of interest to be borne by the Series 2017 Bonds, and (vi) if the Series 2017 Bonds are to be issued in book entry form, all subject, however, to the following further considerations and limitations:

(i) The rate or rates of interest per year to be borne by the Series 2017 Bonds shall be such as are determined to be required by marketing considerations and to result in the sale of the Series 2017 Bonds on a basis most favorable to the City.

(ii) The schedule of the principal amount of Series 2017 Bonds maturing or payable pursuant to Mandatory Sinking Fund Requirements on each Principal Payment Date and the dates and prices upon and at which any Series 2017 Bonds shall be subject to optional redemption, shall be determined to be consistent with the anticipated Net Revenues and to be productive of the most favorable interest rates on the Series 2017 Bonds and their maximum receptivity in the market.

It is hereby determined by this Council that the terms of the Series 2017 Bonds, the procedures for their sale (and whether they are to be sold in a public offering or by private placement), and the determination of the price to be paid for them, all as established in accordance with the Series 2017 Bond Legislation, the Purchase Agreement and the Trust Agreement, are and will be in the best interest of the City and in compliance with all legal requirements.

(b) Primary Offering Disclosure – Official Statement/Private Placement Memorandum. If, in the judgment of the City Auditor, a disclosure document is appropriate relating to the original offering of the Series 2017 Bonds, the Mayor or the President of Council and the City Auditor or the Deputy City Auditor are each authorized and directed, on behalf of the City and in their official capacities, to (i) prepare or cause to be prepared, and make or authorize modifications, completions or changes of or supplements to, a disclosure document in the form of either an official statement (if the Series 2017 Bonds are to be sold in a public offering) or a private placement memorandum (if the Series 2017 Bonds are to be privately placed), in either case, relating to the original issuance of the Series 2017 Bonds, (ii) determine, and to certify or otherwise represent, when the official statement, if utilized, is to be “deemed final” (except for permitted omissions) by the City as of its date or is a final official statement for purposes of paragraph (b) of the Rule, if applicable, (iii) use and distribute, or authorize the use and distribution of those official statements or the private placement memorandum and any supplements thereto in connection with the original issuance of the Series 2017 Bonds, and (iv) complete and sign those official statements or the private placement memorandum and any supplements thereto as so approved, together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of those official statements or the private placement memorandum and any supplements, as they may deem necessary or appropriate.

(c) Agreement to Provide Continuing Disclosure. To the extent required by the Rule, for the benefit of the holders and beneficial owners from time to time of the Series 2017 Bonds, the City agrees to provide or cause to be provided such financial information and operating data, audited financial statements and notices of the occurrence of certain events, in such manner as may be required for purposes of the Rule. The Mayor or the President of Council and the City Auditor or Deputy City Auditor are each authorized and directed to complete, sign and deliver the Continuing Disclosure Agreement, in the name and on behalf of the City, in substantially the form as is now on file with the Clerk of Council. The Continuing Disclosure Agreement is approved, together with any changes or amendments that are not inconsistent with the Series 2017 Bond Legislation and not substantially adverse to the City and that are approved by the Mayor or the President of Council and the City Auditor or Deputy City Auditor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Continuing Disclosure Agreement or amendments thereto.

The City Auditor is further authorized and directed to establish procedures in order to ensure compliance by the City with its Continuing Disclosure Agreement, including timely provision of information and notices as described above. Prior to making any filing required under the Rule, the City Auditor shall consult with and obtain legal advice from, as appropriate, the Law Director and bond or other qualified independent special counsel selected by the City. The City Auditor, acting in the name and on behalf of the City, shall be entitled to rely upon any such legal advice in determining whether a filing should be made. The performance by the City of its Continuing Disclosure Agreement shall be subject to the annual appropriation of any funds that may be necessary to perform it.

Section 5. Application of Proceeds of Series 2017 Bonds; Discharge of the Series 2016 Water Notes; Call for Redemption of Refunded Series 2017 Bonds. The proceeds of sale of the Series 2017 Bonds and any other lawfully available funds of the City as determined by the Mayor or the President of Council and by the City Auditor or the Deputy City Auditor in the Series 2017 Certificate of Award shall be allocated and deposited by the Trustee as follows and in the following order:

(a) To the Water Bond Service Fund, (i) such portion (if any) of the proceeds of the Series 2017 Bonds representing premium and determined in the Series 2017 Certificate of Award to be used to pay Debt Service on the Series 2017 Bonds, and (ii) any accrued interest paid by the Original Purchaser;

(b) To the provider of the Credit Support Instrument, if any, the amount necessary to pay the premium for the Credit Support Instrument with respect to the Series 2017 Bonds;

(c) To the Water Bond Reserve Fund, the amount necessary to fully fund the Required Reserve for the Series 2017 Bonds;

(d) To the Prior Indenture Trustee, the amount necessary to provide for the payment of the principal of and interest on the Refunded Series 2007 Bonds in accordance with the Verification Report and the Prior Indenture;

(e) To the City's Bond Retirement Fund for transfer to the Paying Agent for the Series 2016 Water Notes, the amount necessary to provide for the discharge of the Series 2016 Water Notes at their maturity on June 13, 2017;

(f) To the Water Project Fund, the balance to be applied to pay Costs of Issuance of the Series 2017 Bonds, unless paid by the Trustee at the written direction of the City.

The expenditure of the amounts necessary to pay Costs of Issuance of the Series 2017 Bonds is hereby authorized and approved, and the City Auditor and Deputy City Auditor are each hereby authorized to provide for the payment of any such amounts and costs from the proceeds of the Series 2017 Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose. The City Auditor may request in writing that the Trustee withhold certain proceeds from the sale of the Series 2017 Bonds and provide for the payment of Costs of Issuance of the Series 2017 Bonds on behalf of the City. Any portion of those proceeds received by the City representing premium (after payment of any Costs of Issuance) shall be paid into the Water Bond Service Fund.

The proceeds of the sale of the Series 2017 Bonds are appropriated and shall be used for the purpose for which the Series 2017 Bonds are issued as provided in the Series 2017 Bond Legislation and the Trust Agreement, and the City Auditor and Deputy City Auditor are each hereby authorized and directed to deposit or cause the deposit of those funds to the appropriate fund or funds.

To provide for the discharge of the Series 2016 Water Notes at their maturity from proceeds of the Series 2017 Bonds together with other lawfully available funds of the City, lawfully available Net Revenues in the amount of \$390,000, representing a principal payment of \$390,000 to be applied to the payment of the Series 2016 Water Notes at their maturity, are hereby appropriated for that purpose and the City Auditor and Deputy City Auditor are each hereby authorized and directed to deposit or cause the deposit of those funds to the appropriate fund or funds.

Any available balance in the Water Revenue Fund, after all payments required by this Section have been made, may be used, upon proper action by this Council (1) for any lawful Utility purpose, including (without limitation) payment of interest on, principal of or premium with respect to general obligation bonds or bond anticipation notes issued for Utility purposes, (2) to purchase, call or defease Series 2017 Bonds prior to stated maturity, or (3) upon demand by the Trustee, and with written notification to but without action by this Council, for the purpose of curing any deficit in the Water Bond Service Fund, including restoration of a balance equal to the Required Reserve in the event of its depletion and failure of the City to restore that balance as required by this Section and the Series 2017 Bond Legislation.

All payments to the Trustee under this Section shall be accompanied by an appropriate and descriptive letter of transmittal, a copy of which shall be supplied to the Original Purchaser. As provided in the Trust Agreement, the Trustee is designated as the Bond Registrar, shall keep proper registration books with respect to the Bonds issued under the Trust Agreement, including the Series 2017 Bonds, and the registration thereof as to principal, and shall effect exchanges of the Bonds issued under the Trust Agreement, including the Series 2017 Bonds, in accordance with the Trust Agreement.

Section 6. Security for Series 2017 Bonds. The Series 2017 Bonds shall be special obligations of the City. To the extent provided in and except as otherwise permitted by the Bond Proceedings, (a) the Bond Service Charges on the Series 2017 Bonds shall be payable as provided in the Trust Agreement equally and ratably solely from the Net Revenues and the Pledged Funds, and (b) the payment of Bond Service Charges on the Series 2017 Bonds shall be secured (i) by the Trust Agreement and (ii) by a pledge and assignment of and a lien on the Net Revenues and the Pledged Funds; provided, however, that any pledge or assignment of, or lien on, any Fund, account, receivables, revenues, money or other intangible property not in the custody of the Trustee shall be valid and enforceable only to the extent permitted by law.

The City covenants that it will promptly pay from those sources the Bond Service Charges on every Series 2017 Bond issued under the provisions of the Trust Agreement at the places, on the dates and in the manner provided in the Bond Proceedings and in the Series 2017 Bonds, according to the true intent and meaning thereof.

Nothing in the Trust Agreement shall prevent payment of Bond Service Charges on Additional Bonds from being otherwise secured and protected from sources or by property, funds, and instruments not applicable to the Series 2017 Bonds or to any one or more series of Additional Bonds, or not being secured or protected from sources or by property, funds, or instruments applicable to the Series 2017 Bonds or to one or more series of Additional Bonds.

Nothing in the Series 2017 Bond Legislation, the Series 2017 Bonds or the Trust Agreement shall constitute a general obligation debt or tax-supported bonded indebtedness of the City; the general resources of the City shall not be required to be used, and neither the general credit nor taxing power or full faith and credit of the City are or shall be pledged, for the performance of any duty under the Bond Proceedings or the Series 2017 Bonds. Nothing in the Bond Proceedings gives the holders of Series 2017 Bonds, and they do not have, the right to have excises or taxes levied by the City for the payment of Bond Service Charges on the Series 2017 Bonds or Operating Expenses, but the Series 2017 Bonds are payable solely from the Net Revenues and the Pledged Funds, as provided in the Bond Proceedings, and each Series 2017 Bond shall contain a statement to that effect; *provided, however*, that nothing shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of the Bond Proceedings or the Series 2017 Bonds.

Section 7. Establishment and Continuation of Funds: Application of Revenues. The Funds established by the General Bond Ordinance and further described or referred to in Article V of the Master Trust Agreement, including without limitation, the Water Project Fund, the Water Revenue Fund, the Water Bond Service Fund, the Water Bond Reserve Fund and the Water Rebate Fund shall be and hereby are confirmed as funds under this Ordinance and the Trust Agreement and shall be applied as provided in the Trust Agreement. Each Fund shall be maintained in the custody of either the City or the Trustee, as provided in the Trust Agreement. The Revenues and other money and funds as described in the Trust Agreement shall be deposited in, and disbursed from, those Funds and accounts therein as provided in the Trust Agreement.

Section 8. Covenants of the City. The City, by issuance of the Series 2017 Bonds, covenants and agrees with the holders of the Series 2017 Bonds to perform its applicable covenants and agreements set forth in this Ordinance, the General Bond Ordinance and the Trust Agreement. The City particularly covenants that it will:

- (a) Operate the Utility as a public utility under the Act, including all extensions thereof and improvements thereto.
- (b) Subject to applicable requirements and restrictions imposed by law, at all times prescribe and charge such rates, charges and rentals for the services and facilities of the Utility, and so restrict Operating Expenses, as shall be necessary in order to meet the Net Revenues Available for Bond Service Charges requirement and other requirements of the Trust Agreement.
- (c) Segregate, for accounting purposes, the Revenues and the Funds in its custody from all other revenues and funds of the City.
- (d) At any and all times, cause to be done all such further acts and things and cause to be signed and delivered all such further instruments as may be necessary to carry out the purpose of the Series 2017 Bonds and any Bond Legislation or as may be required by the Act and will comply with all requirements of law applicable to the Utility and its operation.
- (e) Observe and perform at all times all covenants, agreements, authority, actions, undertakings, stipulations and provisions and obligations to be observed or performed on its part under the Trust Agreement, the Continuing Disclosure Agreement, the Purchase Agreement, this Ordinance, the General Bond Ordinance, the Series 2017 Bonds and any other Bond Proceedings and under all Council proceedings pertaining thereto.

Each of those obligations is binding upon the City, and upon each City employee as from time to time may have the authority under law to take any action on behalf of the City that may be necessary to perform all or any part of that obligation, as a duty of the City and of each of those officers and employees resulting from an office, trust or station within the meaning of Section 2731.0.1 of the Revised Code, providing for enforcement by writ of mandamus.

Section 9. Federal Tax Covenants. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Series 2017 Bonds in such manner and to such extent as may be necessary so that (a) the Series 2017 Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Series 2017 Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Series 2017 Bonds to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Series 2017 Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The City Auditor or Deputy City Auditor or any other officer of the City having responsibility for issuance of the Series 2017 Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Series 2017 Bonds as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Series 2017 Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or payments or penalties with respect to the Series 2017 Bonds, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments with respect to the

Series 2017 Bonds, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Series 2017 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Series 2017 Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2017 Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Series 2017 Bonds. The City Auditor or Deputy City Auditor or any other officer of the City having responsibility for issuance of the Series 2017 Bonds is specifically authorized to designate the Series 2017 Bonds as "qualified tax-exempt obligations" if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Each covenant made in this Section with respect to the Series 2017 Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Series 2017 Bonds (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure the exclusion of interest on the Series 2017 Bonds from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Series 2017 Bonds.

Section 10. Call for Redemption of Refunded Series 2007 Bonds. Acting pursuant to the Prior Indenture, including the Third Supplemental Indenture which authorized the Refunded Series 2007 Bonds, the Refunded Series 2007 Bonds are hereby called for redemption on the earliest practicable date as specified in the Series 2017 Certificate of Award (the "*Redemption Date*"), at the required redemption price of the principal amount thereof, and the City Auditor is hereby authorized and directed to cause the Refunded Series 2007 Bonds to be called for redemption on the Redemption Date and arrange for the notice of redemption to be given in accordance with the applicable provisions of the Prior Indenture.

For informational purposes, a certified copy of this Ordinance shall be transmitted by the City Auditor to the Prior Indenture Trustee for the Refunded Series 2007 Bonds and to the Bond Insurer of the Series 2007 Bonds.

In order to provide for the payment of (a) the interest on the Refunded Series 2007 Bonds on any interest payment date following the Closing Date and through the Redemption Date, (b) the principal and mandatory sinking fund payments (if any) of the Refunded Series 2007 Bonds maturing on or prior to the Redemption Date and (c) the principal of the Refunded Series 2007 Bonds to be called for redemption on the Redemption Date, the City covenants and agrees with the Prior Indenture Trustee and with the owners of the Refunded Series 2007 Bonds that the City will take, and will cause the Prior Indenture Trustee to take, all steps required by the terms of the Prior Indenture to carry out such payments. The City will provide from the proceeds of the Series 2017 Bonds and other lawfully available funds in accordance with the Series 2017 Bond Legislation, moneys and investments sufficient to pay in full (a) the interest on the Refunded Series 2007 Bonds on any interest payment date following the Closing Date and through the Redemption Date, (b) the principal and mandatory sinking fund payments (if any) of the Refunded Series 2007 Bonds maturing on or prior to the Redemption Date and (c) the principal of the Refunded Series 2007 Bonds to be called for redemption on the Redemption Date. The City covenants and agrees with the Prior Indenture Trustee and with the owners of the Refunded Series 2007 Bonds that the City will take, and will cause the Prior Indenture Trustee to take, all steps required by the terms of the Series 2017 Bond Legislation and the Prior Indenture to carry out such payments so that the Refunded Series 2007 Bonds are not deemed to be outstanding.

There shall be delivered to the Prior Indenture Trustee for deposit to the Bond Fund held by it under the Prior Indenture proceeds to be received from the sale of the Series 2017 Bonds and other lawfully available funds, if any, which may be invested, and if invested shall be invested in non-callable direct obligations of the United States of America (as provided in the Prior Indenture) or may otherwise be held in cash (as to all or a portion of the moneys in said Bond Fund).

Such non-callable direct obligations and such portion of the moneys in the Bond Fund held under the Prior Indenture which may be held in cash shall be certified by an independent

public accounting firm of national reputation in a written report (the "*Verification Report*") to be of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient together with any moneys in the Bond Fund to be held in cash as contemplated by the Verification Report, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, to cause the Refunded Series 2007 Bonds to be deemed to be not outstanding as provided in the Prior Indenture. The Mayor or the President of Council and City Auditor or Deputy City Auditor are hereby authorized to retain and designate in the Series 2017 Certificate of Award an independent public accounting firm of national reputation to prepare and deliver the Verification Report.

At the direction of the City Auditor, the Prior Indenture Trustee is authorized to apply and subscribe for State and Local Government Series securities on behalf of the City. Further, if the City Auditor determines that it would be in the best interest and to the financial advantage of the City to purchase United States Treasury Obligations for deposit into the Bond Fund held under the Prior Indenture, the City Auditor or any other officer of the City, on behalf of the City and in his/her official capacity, may purchase and deliver such obligations, engage the services of a financial advisor, bidding agent or similar entity for the purpose of facilitating the bidding, purchase and delivery of such obligations for, and any related structuring of, said Bond Fund, execute such instruments as are deemed necessary to engage such services for such purpose, and provide further for the payment of the cost of obtaining such services from the proceeds of the Series 2017 Bonds to the extent available and otherwise from any other lawfully available funds that are appropriated or shall be appropriated for that purpose.

Any such non-callable direct obligations, and moneys, if any, in addition thereto contemplated by the Verification Report to be held in cash, shall be held by the Prior Indenture Trustee in trust and committed irrevocably to the payment of the principal of, any redemption premium, and accrued interest on the Refunded Series 2007 Bonds.

Section 11. First Supplemental Trust Agreement. The First Supplemental Trust Agreement, in substantially the form now on file with the Clerk of Council, shall be signed by the Mayor or President of Council and by the City Auditor or the Deputy City Auditor in the name and on behalf of the City. The First Supplemental Trust Agreement is approved, together with any changes or amendments thereto that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by those signatories on behalf of the City, all of which shall be conclusively evidenced by their signing of the First Supplemental Trust Agreement and any amendments thereto. The City Auditor shall provide for the payment for services rendered and for reimbursement of expenses incurred pursuant to the Trust Agreement, except to the extent paid or reimbursed from the proceeds of the Series 2017 Bonds to the extent available and then from other money lawfully available and appropriated for the purpose.

This Ordinance shall constitute part of the First Supplemental Trust Agreement for all purposes. The execution and delivery of the First Supplemental Trust Agreement shall constitute certification and conclusive evidence that the Series 2017 Bond Legislation as set forth in it is a true and exact copy of this Ordinance as passed by the Council and of the Series 2017 Certificate of Award authorized hereby and in effect at the time of execution and delivery of the First Supplemental Trust Agreement.

Section 12. Provision of Required Reserve Credit Support Instrument. To the extent they deem necessary, each of the Mayor, the President of Council, the City Auditor and Deputy City Auditor, or any of those officials, is authorized to request and obtain any required consents to deposit a Credit Support Instrument into the Water Bond Reserve Fund, and to pay from the proceeds of the Series 2017 Bonds any fees and expenses related thereto.

Section 13. Further Authorizations and Implementation of Authorizations. The Mayor, the President of Council, the City Auditor, the Deputy City Auditor, the City Treasurer, the Law Director and the Clerk of Council, or any of them, as appropriate, are each hereby authorized and directed to do all things necessary and appropriate to complete and perform the delivery of the Series 2017 Bonds to the Original Purchaser and, in accordance with the terms and provisions of this Ordinance, the Trust Agreement, and the Purchase Agreement, to make the necessary arrangements on behalf of the City to establish the date, location, procedure and conditions for the delivery of the Series 2017 Bonds to the Original Purchaser to the extent not provided for therein, and those officials, or any of them are further directed to take all steps necessary to effect due authentication, delivery and security of the Series 2017 Bonds under the



terms of the Series 2017 Bond Legislation and the Trust Agreement, and the Purchase Agreement, including, without limitation, such certifications and instruments as are, in the opinion of bond counsel, necessary or appropriate to consummate the transactions provided for in the Series 2017 Bond Legislation, the Trust Agreement and the Purchase Agreement, the discharge of the Series 2016 Water Notes, and the defeasance of the outstanding Series 2007 Bonds under the Prior Indenture.

Section 14. Bond Counsel. The legal services of the law firm of Locke Lord LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Series 2017 Bonds and rendering at delivery related legal opinions, and the defeasance of the outstanding Series 2007 Bonds. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of the City, or the execution of public trusts. For those legal services that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. The City Auditor is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 15. Other Issuance Costs. The City Auditor is authorized to enter into necessary contracts without competitive bidding to provide services with respect to the Series 2017 Bonds by the Rating Services, the Trustee, by providers of Credit Support Instruments, by a verification agent, for the printing of the preliminary and final official statements or the private placement memorandum, and for the printing of the Series 2017 Bonds, and by other necessary service providers, all as deemed necessary by the City Auditor to be consistent with the foregoing authorization and in the best interests of the City. Unless paid by the Trustee at the written direction of the City from the proceeds of sale of the Series 2017 Bonds, the costs of those services shall be paid from money deposited in the Water Project Fund which is appropriated hereby for that purpose. The actions of the Mayor, the President of Council, the City Auditor, the Deputy City Auditor, the Clerk of Council, Law Director or any other officer of the City in doing any and all acts necessary in connection with the issuance and sale of the Series 2017 Bonds are hereby ratified and confirmed.

Section 16. Other Determinations. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Series 2017 Bonds in order to make them the legal, valid and binding special obligations of the City have been performed and have been met, or will at the time of delivery of the Series 2017 Bonds have been performed or have been met, in regular and due form as required by law; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Series 2017 Bonds.

Section 17. Severability. Each section of this Ordinance and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision of any section thereof to be invalid or void shall not be deemed nor held to affect the validity of any other section or subdivision of this Ordinance.

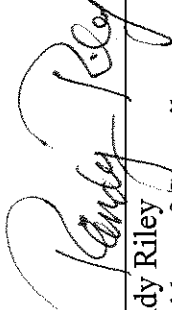
Section 18. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, except as otherwise permitted thereby.


Section 19. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order (a) to issue and sell the Series 2017 Bonds in a timely manner which is necessary to enable the City to take advantage of favorable interest rates and realize a savings in interest costs by refunding the Refunded Series 2007 Bonds, and (b) to provide for the discharge of the Series 2016 Water Notes at their maturity; wherefore, this Ordinance shall be in full force and effect immediately

upon its passage. This Ordinance relates to the financing of public improvements previously authorized by this Council.

Section 20. Publication. The Clerk of Council is hereby directed to cause a succinct summary of this Ordinance to be published in accordance with Revised Code Section 731.21.


Passed: April 20th, 2017

  
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Randy Riley  
President of Council

  
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Marian Miller  
Clerk of Council

Attest:

Approved: April 20th, 2017

  
\_\_\_\_\_  
John M. Stanforth  
Mayor

**CERTIFICATE**

The undersigned Clerk of Council of the City of Wilmington, Ohio, hereby certifies that the foregoing is a true copy of Ordinance No. 0-17-1 duly passed by the Council of the City on April 20th, 2017.

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Marian Miller  
Clerk of Council