

## CITY OF THIBODAUX, STATE OF LOUISIANA

The following ordinance, having been previously introduced on July 16, 2019, a notice of introduction having been published on July 25, 2019, and a public hearing held thereon on this date, was offered for final adoption by \_\_\_\_\_ and seconded by \_\_\_\_\_:

### ORDINANCE NO. \_\_\_\_\_

An ordinance authorizing the issuance of not to exceed Six Million Five Hundred Ten Thousand Dollars (\$6,510,000) of Taxable Utilities Revenue Bonds, in one or more series, of the City of Thibodaux, State of Louisiana; authorizing the execution of a Loan and Pledge Agreement with the Louisiana Department of Environmental Quality (“*DEQ*”); providing for the sale and delivery of said Bonds to DEQ; prescribing the form, fixing the details and providing for the payment of principal of and interest on such Bonds; and providing for other matters in connection therewith.

WHEREAS, the City of Thibodaux, State of Louisiana (the “*City*”), now owns and operates a combined wastewater treatment and disposal system and natural gas distribution system of the City (the “*System*”) as a revenue-producing work of public improvement, and proposes to acquire, construct and install improvements, extensions and replacements to the wastewater treatment and disposal portion of the System, including but not necessarily limited to improvements to an existing pond and construction of a new sewerage transportation improvements and a waste water treatment plant for the North Thibodaux service area (the “*Project*”); and

WHEREAS, the City proposes to finance a portion of the cost of the Project through the issuance of its Taxable Utilities Revenue Bond, in one or more series, payable as to principal and interest from a pledge and dedication of the income and revenue derived by the Issuer from the operation of the System, after provision has been made for payment therefrom of the reasonable and necessary expenses of administering, operating and maintaining the System (the “*Net Revenues*”), pursuant to the provisions of R.S. 39:524, and Sub-Part A, Part II, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended, and other constitutional and statutory authority supplemental thereto (collectively, the “*Act*”); and

WHEREAS, pursuant to the authority of the Act the City, by a resolution adopted June 4, 2019, by this City Council of the City (the “*Governing Authority*”), gave notice of its intention to issue taxable utilities revenue bonds of the City in an amount not exceeding \$6,510,000 and the City held a public hearing thereon on July 16, 2019, at which no objections were made to the issuance of such bonds and no petition was filed requesting an election thereon; and

WHEREAS, it is now the desire of the City to authorize the issuance of its Taxable Utilities Revenue Bonds, in one or more series, in an amount not to exceed Six Million Five Hundred Ten Thousand Dollars (\$6,510,000) (the “*Bonds*”) in accordance with the terms and provisions of the Act and for the purposes set forth above; and

WHEREAS, at the time of the delivery of the Bonds, the City will have outstanding Taxable Utilities Revenue Bonds, Series 2013, with a final maturity on March 1, 2035 (the “**Outstanding Parity Bonds**”), which are payable from a pledge and dedication of the Net Revenues; and

WHEREAS, the Bonds will be issued on a complete parity with the Outstanding Parity Bonds with respect to the pledge of the Net Revenues; and

WHEREAS, the United States of America, pursuant to the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, specifically Subchapter VI, Chapter 26 of Title 33 of the United States Code (the “**Federal Act**”), is authorized to make capitalization grants to states to be used for the purpose of establishing a water pollution control revolving fund for providing assistance (i) for construction of treatment works (as defined in Section 1292 of the Federal Act) which are publicly owned; (ii) for implementing a management program under Section 1329 of the Federal Act; and (iii) for developing and implementing a conservation and management plan under Section 1330 of the Federal Act; and

WHEREAS, the State of Louisiana (the “**State**”), pursuant to Subtitle II, Chapter 14 of Title 30 of the Louisiana Revised Statutes of 1950, as amended, specifically La. R.S. 30:2301, *et seq.*) (the “**State Act**”), has established a Clean Water State Revolving Fund (the “**State Revolving Fund**”) in the custody of the Department of Environmental Quality (the “**Department**”) to be used for the purpose of providing financial assistance for the improvement of wastewater treatment facilities in the State, as more fully described in Section 2302 of the State Act, and has authorized the Department to administer the State Revolving Fund in accordance with applicable federal and state law; and

WHEREAS, the City has made application to the Department for a loan from the State Revolving Fund to finance a portion of the costs of the Project and the Department has approved the City’s application for such loan; and

WHEREAS, the Bonds will be issued to represent the City’s obligation to repay the loan from the State Revolving Fund; and

WHEREAS, the City desires to fix the details necessary with respect to the issuance, sale and delivery of the Bonds, and to provide for the authorization and issuance thereof, as hereinafter provided;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Thibodaux, State of Louisiana, acting as the governing authority of the City, that:

SECTION 1. Definitions. As used herein, the following terms shall have the following meanings, unless the context otherwise requires:

“**Act**” means R.S. 39:524, and Sub-Part A, Part II, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended, and other constitutional and statutory authority supplemental thereto.

**“Additional Parity Bonds”** shall mean any *pari passu* additional bonds that may hereafter be issued pursuant to Section 20 hereof on a parity with the Bonds.

**“Administrative Fee”** means the annual fee equal to one-half of one percent (0.50%) per annum of the outstanding principal amount of the Bonds, or such lesser amount as the Department may approve from time to time, which shall be payable each year in two equal semi-annual installments on each Interest Payment Date.

**“Authorized Officers”** means, collectively, the Mayor and the Council Administrator of the City, or such other person or persons authorized pursuant to a resolution or ordinance of the Governing Authority to act as an authorized officer of the City to perform any act or execute any document relating to the Loan, the Bonds or the Loan Agreement.

**“Bond”** or **“Bonds”** means the City’s Taxable Utilities Revenue Bond, Series 2019, issued by this Bond Ordinance in the total aggregate principal amount of not exceeding Six Million Five Hundred Ten Thousand Dollars (\$6,510,000), and any bond of said issue, whether initially delivered or issued in exchange for, upon transfer of, or *in lieu* of any previously issued.

**“Bond Ordinance”** means this ordinance authorizing the issuance of the Bonds.

**“Bond Register”** means the registration books of the Paying Agent (initially the Council Administrator of the City), in which registration of the Bonds and transfers of the Bonds shall be made as provided herein.

**“Bond Year”** means the one year period ending on each Principal Payment Date.

**“Business Day”** means a day of the year on which banks located in the City of New Orleans are not required or authorized to remain closed and on which the New York Stock Exchange is not closed.

**“City”** means the City of Thibodaux, State of Louisiana, a political subdivision of the State of Louisiana, and its successors or assigns.

**“Completion Date”** means the earlier of (i) the date of the final disbursement of the purchase price of the Bonds to the City, or (ii) the date the operation of the Project is initiated or capable of being initiated, as certified by an Authorized Officer in accordance with the Loan Agreement.

**“Consulting Engineer”** means a regionally known consulting engineer or firm of consulting engineers with skill and experience in the construction and operation of publicly owned drinking water and wastewater disposal systems.

**“Defeasance Obligations”** shall mean (i) cash, or (ii) non-callable Government Securities.

**“Department”** means the Louisiana Department of Environmental Quality, an executive department and agency of the State of Louisiana, and any successor to the duties and functions thereof.

**“Fiscal Year”** means the City’s one-year accounting period determined from time to time by the Governing Authority as the fiscal year of the City, currently being the year ending each December 31.

**“Governing Authority”** means the City Council of the City of Thibodaux, State of Louisiana.

**“Government Securities”** means direct obligations of, or obligations the timely payment of the principal of and interest on which are fully and unconditionally guaranteed by the United States of America, which are non-callable prior to their maturity and may be United States Treasury Obligations such as the State and Local Government Series and may be in book entry form.

**“Interest Payment Date”** means each March 1 and September 1, commencing March 1, 2020, or such other semi-annual payment dates as may be approved by the Authorized Officers in the manner set forth in Section 2.

**“Loan”** means the loan made by the Department from the Clean Water State Revolving Fund to the City pursuant to the Loan Agreement, the obligation to repay which Loan is evidenced by the Bonds.

**“Loan Agreement”** means the Loan and Pledge Agreement to be entered into by and between the Department and the City prior to the delivery of the Bonds, in substantially the form attached hereto as **Exhibit B**, which will contain certain additional agreements relating to the Bonds and the Project, as it may be supplemented or amended from time to time in accordance with the provisions thereof.

**“Net Revenues”** means the income and revenues derived or to be derived from the operation of the System, as now existing and as constructed, acquired, extended and improved with the proceeds of the Bond or as the System shall hereafter be improved, extended or supplemented from any source whatsoever while the Bond remains outstanding, including, specifically, all properties of every nature owned by the City and used or useful in the operation of the System, including real estate, personal and intangible properties, contracts, franchises, leases and choses in action, after the payment therefrom of the reasonable and necessary expenses of operating and maintaining the System (excluding depreciation).

**“Outstanding”** when used with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Bond Ordinance, except:

- (a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds for whose payment or prepayment sufficient funds have been theretofore deposited in trust for the Owners of such Bonds as provided in Section 28 herein provided that, if such Bonds are to be prepaid, irrevocable notice of such prepayment has been duly given or provided for pursuant to this Bond Ordinance, to the satisfaction of the Paying Agent, or waived;

- (c) Bonds in exchange for or *in lieu* of which other Bonds have been registered and delivered pursuant to this Bond Ordinance; and
- (d) Bonds alleged to have been mutilated, destroyed, lost or stolen which have been paid as provided in this Bond Ordinance.

**“Outstanding Parity Bonds”** means the City’s outstanding Taxable Utilities Revenue Bonds, Series 2013, with a final maturity on March 1, 2035.

**“Outstanding Parity Bond Ordinance”** means the ordinance adopted by the Governing Authority on September 3, 2013, which authorizes the issuance of the Outstanding Parity Bonds, as the same may be amended and/or supplemented from time to time.

**“Owner”** or **“Owners”** when used with respect to any Bond means the Person in whose name such Bond is registered with the Council Administrator of the City.

**“Paying Agent”** means the chief financial officer of the City, initially the Council Administrator of the City, unless and until a successor Paying Agent shall have assumed such responsibilities pursuant to this Bond Ordinance.

**“Person”** means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

**“Principal Payment Date”** means each March 1 (or such other annual payment date as may be approved by the Authorized Officers in the manner set forth in Section 2), commencing not later than one year after the completion of the Project and the final payment date to fall not exceeding nineteen years from the first principal payment date thereafter for a total of twenty (20) consecutive annual payment dates, providing that in no event shall the final maturity of the Bonds be more than twenty-two (22) years from the date of the Bonds.

**“Purchaser”** means the Department, being the original purchaser of the Bonds.

**“Project”** means the acquisition, construction and installation of extensions, improvements and replacements to the wastewater treatment and disposal portion of the System, including equipment and fixtures, which shall constitute a work of public improvement for the City, including but not necessarily limited to improvements to an existing pond and construction of a new sewerage transportation improvements and a waste water treatment plant for the North Thibodaux service area, and as further described in the Loan Agreement.

**“Qualified Investments”** shall mean the following, provided that the same are at the time legal for investment of the City’s funds and, if required by law, are secured at all times by collateral described in clause (a) below:

- (a) Government Securities, including obligations of any of the federal agencies set forth in clause (b) below to the extent 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);

- (b) bonds, debentures or other evidences of indebtedness issued by the Private Export Funding Corporation, Federal Home Loan Bank System, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association and Student Loan Marketing Association;
- (c) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of the State or any national banking association having its principal office in the State which is a member of the Federal Deposit Insurance Corporation and which are secured at all times by collateral described in clause (a) above;
- (d) certificates of deposit, savings accounts, deposit accounts or money market deposits of any bank or trust company organized under the laws of the State or any national banking association having its principal office in the State which are fully insured by the Federal Deposit Insurance Corporation; and
- (e) the Louisiana Asset Management Pool (LAMP).

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

**“Reserve Fund Requirement”** means as of any date of calculation, a sum equal to one-half of the maximum principal and interest requirements for any succeeding Bond Year on the Bonds. The Reserve Fund Requirement for any issue(s) of Additional Parity Bonds shall be defined in the ordinance(s) authorizing the issuance of such Additional Parity Bonds.

**“System”** means the combined wastewater treatment and disposal system and natural gas distribution system of the City, as now existing and as constructed, acquired, extended and improved with the proceeds of the Bonds or as said combined drinking water and wastewater collection, treatment and disposal system shall hereafter be improved, extended or supplemented from any source whatsoever while any of the Bonds remain outstanding, including, specifically, all properties of every nature owned by the City and used or useful in the operation of said combined drinking water and wastewater collection, treatment and disposal system, including real estate, personal and intangible properties, contracts, franchises, leases and choses in action.

**SECTION 2. Authorization of Bonds.** In compliance with and under the authority of the Act, there is hereby authorized the incurring of an indebtedness of not exceeding Six Million Five Hundred Ten Thousand Dollars (\$6,510,000) for, on behalf of and in the name of the City, for the purpose of financing the Project and for paying costs of issuance, as defined in the Act. To represent the said indebtedness, the City does hereby authorize the issuance of its *“Taxable Utilities Revenue Bond, Series 2019,”* in an amount not to exceed Six Million Five Hundred Ten Thousand Dollars (\$6,510,000). The Bonds shall be initially issued in the form of a single fully registered Bond numbered R-1, shall be dated the date of delivery thereof and shall be in substantially the form attached hereto as **Exhibit A.**

The Authorized Officers may approve a different series designation if the Bonds are delivered after the end of 2019 or if it is in their sole judgment preferable to do so.

The Bonds shall mature in twenty (20) installments of principal, payable annually on each March 1, and each annual installment shall be the applicable percentage shown in the following table, rounded to the nearest One Thousand Dollars (\$1,000), of the outstanding principal amount of the Bonds on the day before the applicable Principal Payment Date:

<u>Date (March 1)</u>	<u>Percentage of Principal</u>	<u>Date (March 1)</u>	<u>Percentage of Principal</u>
2021	4.564%	2031	9.580%
2022	4.827	2032	10.696
2023	5.120	2033	12.090
2024	5.448	2034	13.884
2025	5.817	2035	16.275
2026	6.235	2036	19.624
2027	6.712	2037	24.647
2028	7.264	2038	33.019
2029	7.907	2039	49.764
2030	8.667	2040	100.000

In the event that the Completion Date of the Project is on or after the first Principal Payment Date stated in the Bonds, the principal payment schedule set forth above may be adjusted so that each payment shall be due on the March 1 that is one year later than shown above, provided that in no event shall the final principal payment be more than twenty-two (22) years from the Delivery Date. To exercise the option to defer the principal repayment schedule, the City must so notify the Department in writing prior to September 1, 2020, and certify that the Completion Date will not have occurred prior to March 1, 2021.

The unpaid principal of the Bonds shall bear interest from the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, at the rate of forty-five hundredths of one percent (0.45%) per annum, said interest to be calculated on the basis of a 360-day year consisting of twelve 30-day months and payable on each Interest Payment Date. Interest on the Bonds on any Interest Payment Date shall be payable only on the aggregate amount of the purchase price which shall have been paid theretofore to the City and is outstanding and shall accrue with respect to each purchase price installment only from the date of payment of such installment.

In addition to interest at the rate set forth above, at any time that the Department owns the Bonds the City will pay the Administrative Fee to the Department on each Interest Payment Date. In the event (i) the Department owns any Bonds or the Department has pledged or assigned any Bonds in connection with its Clean Water State Revolving Fund, and (ii) the Administrative Fee payable by the City to the Department under the terms of the Loan Agreement is declared illegal or unenforceable by a court or an administrative body of competent jurisdiction, the interest rate borne by the Bonds shall be increased by one-half of one percent (0.50%) per annum, effective as of the date declared to be the date from which the

Administrative Fee is no longer owed because of such illegality or unenforceability. The Administrative Fee shall be calculated in the same manner as interest on the Bonds.

SECTION 3. Prepayment. The principal installments of the Bonds are subject to prepayment at the option of the City at any time, in whole or in part, at a prepayment price of par plus accrued interest and accrued Administrative Fee, if any, to the prepayment date and in such case the remaining principal of the Bonds shall continue to mature in installments calculated using the percentages shown in Section 2 above. Official notice of such call for prepayment shall be given by means of first class mail, postage prepaid by notice deposited in the United States Mail not less than thirty (30) days prior to the prepayment date addressed to the Owner of each Bond to be prepaid at his address as shown on the registration records of the Paying Agent. In the event a portion of the Bonds is to be prepaid, such Bonds shall be surrendered to the Paying Agent, who shall note the date and amount of such prepayment in the space provided therefor on the Bonds.

SECTION 4. Security for Payment of Bonds. The Bonds, equally with the Outstanding Parity Bonds, shall be secured and payable in principal and interest exclusively by a pledge of the Net Revenues. The Net Revenues are hereby irrevocably and irrepealably pledged in an amount sufficient for the payment of the Bond in principal and interest as the installments thereof fall due, and the income and revenues thus pledged shall remain so pledged for the security of the Bond in principal and interest until they shall have been fully paid and discharged.

In providing for the issuance of the Bonds, the City does hereby covenant and warrant that it is lawfully seized and possessed of the System, that it has a legal right to pledge the Net Revenues as herein provided, that the Bonds and the Outstanding Parity Bonds will have a lien and privilege on the Net Revenues subject only to the prior payment from the income and revenues of the System (or from other lawfully available sources) of all reasonable and necessary expenses of operation and maintenance of the System, and that the City will at all times maintain the System in first-class repair and working order and condition.

This Governing Authority finds and determines that the parity requirements of the Outstanding Parity Bond Ordinance(s) have been satisfied. Furthermore, the City will comply with the parity requirements outlined in the Outstanding Parity Bond Ordinance(s) and will deliver at or prior to delivery of the Bonds a parity certification in substantially the form attached hereto as **Exhibit C**.

SECTION 5. Bond Ordinance a Contract. The provisions of this Bond Ordinance shall constitute a contract between the City and the Owner or Owners from time to time of the Bonds, and any such Owner may by suit, action, mandamus or other proceedings, enforce the statutory lien provided by the Act as well as the security for the Bonds provided in this Bond Ordinance, and may by suit, action, mandamus, or other proceedings enforce and compel performance of all of the duties required to be performed by the Governing Authority as may be provided for in this Bond Ordinance.

Notwithstanding the foregoing, no member of the Governing Authority or any officer or employee of the City, or any person executing the Bonds shall be personally liable on the Bonds.



SECTION 6. Statutory Lien. As provided in R.S. 39:504, the Bonds shall be secured debt entitled to the highest possible protection and priority afforded by the bankruptcy laws of the United States and the State of Louisiana, and the Owners shall have a statutory lien on and a security interest in the Net Revenues pledged to the payment of the Bonds in this Bond Ordinance, to the fullest extent and in the manner stated in the Act and this Bond Ordinance, and any pledge or grant of a lien or security interest in such Net Revenues made by the City in connection with the issuance of the Bonds shall be valid, binding and perfected from the time when the pledge or grant of lien or security interest is made. The Net Revenues shall immediately be subject to the lien of such pledge and security interest without any physical delivery therefor or further act and the lien of such pledge and security interest shall be first priority and valid and binding as against all parties having claims of any kind in tort, contract, bankruptcy or otherwise against the City, whether or not such parties have notice thereof. The Owner or Owners of the Bonds shall be secured creditors with respect to such Net Revenues. As provided by R.S. 39:504(D), the statutory lien provided in the Act shall also apply to and secure the Administrative Fee.

SECTION 7. Sale and Delivery of Bonds. The Bonds are hereby awarded to and sold to the Department at a price of par plus accrued interest, if any, under the terms and conditions set forth in the Loan Agreement, and after their execution the Bonds shall be delivered to the Department or its agents or assigns, upon receipt by the City of the agreed first advance of the purchase price of the Bonds. Pursuant to R.S. 39:505(B), the City has determined to sell the Bonds at a private sale without necessity of publication of a notice of sale. It is understood that the purchase price of the Bonds will be paid by the Department to the City in installments, in the manner and under the terms and conditions set forth in the Loan Agreement.

SECTION 8. Manner of Payment. The principal and interest on the Bonds will be payable by check mailed by the Paying Agent to the Owner (determined as of the Interest Payment Date) at the address shown on the registration books kept by the Paying Agent for such purpose, provided that payment of the final installment of principal on the Bonds shall be made only upon presentation and surrender of the Bonds to the Paying Agent.

SECTION 9. Execution of Bonds and Documents. The Authorized Officers are each hereby empowered, authorized and directed to do any and all things necessary and incidental to carry out all of the provisions of this Bond Ordinance, to execute and deliver the Loan Agreement, and to cause the Bonds to be prepared and/or printed, to issue, execute and seal the Bonds and to effect delivery thereof as hereinafter provided. If facsimile signatures are used on the Bonds, then such signatures shall be registered with the Louisiana Secretary of State in the manner required by La. R.S. 39:244, provided that at least one signature on each Bond shall be a manual signature.

In connection with the issuance and sale of the Bonds, the Authorized Officers are each authorized, empowered and directed to execute on behalf of the City such additional documents, certificates and instruments as they may deem necessary, upon the advice of counsel, to effect the transactions contemplated by this Bond Ordinance, including a Commitment Agreement with the Department. The signatures of said officers on such documents, certificates and instruments shall be conclusive evidence of the due exercise of the authority granted hereunder.

SECTION 10. Registration. The City shall cause the Bond Register to be kept at the principal office of the Paying Agent in which registration of the Bonds and transfers of the Bonds shall be made as provided herein. The Bonds may be transferred, registered and assigned only on the Bond Register, and such registration shall be at the expense of the City. The Bonds may be assigned by the execution of an assignment form on the Bonds or by other instruments of transfer and assignment acceptable to the Paying Agent. A new Bond will be delivered by the Paying Agent to the last assignee (the new Owner) in exchange for such transferred and assigned Bond after receipt of the Bond to be transferred in proper form.

SECTION 11. Effect of Registration. The City, the Paying Agent, and any agent of either of them may treat the Owner in whose name any Bond is registered as the Owner of such Bond for the purpose of receiving payment of the principal (and prepayment price) of and interest on such Bond and for all other purposes whatsoever, and to the extent permitted by law, neither the City, the Paying Agent, nor any agent of either of them shall be affected by notice to the contrary.

SECTION 12. Recital of Regularity. This Governing Authority, having investigated the regularity of the proceedings had in connection with this issue of Bonds, and having determined the same to be regular, the Bonds shall contain the following recital authorized by and having the effect set forth in R.S. 39:507, to wit:

“It is certified that this indebtedness is authorized by and is issued in conformity with the requirements of the Constitution and statutes of Louisiana.”

SECTION 13. Deposit of Bond Proceeds. The proceeds derived from the sale of the Bonds shall constitute a trust fund to be used exclusively for the purposes for which the Bonds are herein authorized to be issued, but the purchaser of the Bonds shall not be obliged to see to the application thereof. All of the proceeds derived from the sale of the Bonds, which shall be paid in installments by the Department in the manner set forth in the Loan Agreement, shall be deposited by the City in a Construction Fund (the “*Construction Fund*”). The funds in the Construction Fund shall be used solely for the purpose of paying costs of the Project, in the manner set forth in the Loan Agreement, and costs of issuance, as defined in the Act.

SECTION 14. Davis-Bacon Wage Rate Requirements. The City agrees that all laborers and mechanics employed by contractors and subcontractors on the portion of the project that is funded in whole or in part with the Bonds purchased by the Department shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality of the City as determined by the Clerk of the United States Department of Labor (“*DOL*”) in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code. DOL provides all pertinent information related to compliance with the foregoing requirements, including prevailing wage rates and instructions for reporting. The City will ensure that all construction contracts relating to the portion of the Project that is funded in whole or in part with Bonds purchased by the Department will require that the contractor comply with the aforesaid wage and reporting requirements. This section shall not apply to situations where the City may perform construction work using its own employees rather than any contractor or subcontractor.

SECTION 15. Flow of Funds. In order that the principal of and the interest on the Bonds will be paid in accordance with their terms and for the other objects and purposes hereinafter provided, the City covenants as follows:

All of the income and revenues derived or to be derived by the City from the operation of the System shall continue to be deposited daily as the same may be collected in a separate and special bank account with the regularly designated fiscal agent bank of the City, and designated as the “*Utilities System Revenue Fund*” (the “**Revenue Fund**”), said Fund to be maintained and administered in the following order of priority and for the following express purposes:

- (a) The payment of, first, all reasonable and necessary expenses of operating and maintaining the System.
- (b) The maintenance of the “*Utilities Revenue Sinking Fund*” (the “**Debt Service Fund**”), sufficient in amount to pay promptly and fully the principal of and the interest on the Bonds, the Outstanding Parity Bonds and any Additional Parity Bonds issued hereafter in the manner provided by this Bond Ordinance, as they severally become due and payable, by transferring from the Revenue Fund to the Debt Service Fund, monthly in advance on or before the 20th day of each month of each year, a sum equal to the pro-rata amount of interest falling due on the Bonds, the Outstanding Parity Bonds and any Additional Parity Bonds on the next Interest Payment Date and the pro-rata amount of the principal falling due on the Bonds, the Outstanding Parity Bonds and any Additional Parity Bonds on the next principal payment date, together with such additional proportionate sum as may be required to pay said principal and interest as the same respectively become due. The City shall transfer or cause to be transferred from the Debt Service Fund to the paying agent(s) for all bonds payable from the Debt Service Fund, at least one (1) day in advance of the date on which payment of principal or interest falls due, immediately available funds fully sufficient to pay promptly the principal and interest so falling due on such date.

If Additional Parity Bonds are hereinafter issued by the City in the manner provided in this Bond Ordinance, moneys in the Debt Service Fund shall be equally available to pay principal and interest on such Additional Parity Bonds, and payments into the Debt Service Fund shall be increased as provided in the ordinance authorizing the issuance of such Additional Parity Bonds. Said fiscal agent bank shall transfer from the Debt Service Fund to any paying agent or pay directly to the owner, for all bonds payable from the said Debt Service Fund, at least three (3) days in advance of the date on which each payment of principal or interest falls due, funds fully sufficient to pay promptly the principal and/or interest so falling due on such date; except, if payment is made by electronic debit, then such payment shall be made no later than 11:00 a.m. Louisiana time on the day such payment is due.

- (c) The maintenance of the “*Utilities Revenue Bond Reserve Fund*” (the “**Reserve Fund**”), containing an account for the Bonds designated the “*Series 2019 Account*” (or such other designation that will identify such account with the

Bonds) which shall be funded monthly in advance on or before the 20th day of each month of each year, commencing with the month following the delivery of the Bonds, with a sum at least equal to at least twenty five percent (25%) of the amount to be paid into the Debt Service Fund with respect to the Bonds, the payments into the Series 2019 Account to continue until such time as there has been accumulated in the Series 2019 Account a sum equal to the Reserve Fund Requirement, as defined above. Moneys in the Series 2019 Account shall be used to secure and make payments solely on the Bonds (and not on any other issues) as to which there would otherwise be default.

In the event that Additional Parity Bonds are issued, then the City may establish additional accounts for each such series of Additional Parity Bonds if required in connection with the issuance of such Additional Parity Bonds, each such account to be designated as the “Series (insert series designation) Account.” The money in the accounts of Reserve Fund shall be retained solely for the purpose of paying the principal of and interest on the respective series of bonds payable from the Debt Service Fund as to which there would otherwise be default (initially the Bonds and the Outstanding Parity Bonds). With respect to accounts that may be required in connection with the issuance of Additional Parity Bonds, the City shall fund such accounts by transferring from the proceeds of such series or from the Revenue Fund (after making all required payments from said fund as hereinabove described), such amounts as will increase the total amount on deposit in each account in the Reserve Fund to a sum equal to the reserve fund requirement, if any, designated and established for such series of Additional Parity Bonds.

- (d) The maintenance of the “*Capital Additions and Contingencies Fund*” established in connection with the issuance of the Outstanding Parity Bonds (the “*Contingencies Fund*”) to care for extensions, additions, improvements, renewals and replacements necessary to properly operate the System, by transferring from funds in the Revenue Fund after making the payments required by (a), (b) and (c) above to the Contingencies Fund monthly on or before the 20th day of each month of each year, a sum equal to five percent (5%) of the Net Revenues for the preceding month, provided that such sum is available after provision is made for the payments required under paragraphs (a), (b) and (c) above. Such payments into the Contingencies Fund shall continue until such time as there has been accumulated in the Contingencies Fund the sum of One Hundred Thousand Dollars (\$100,000, whereupon such payments may cease and need be resumed thereafter only if the total amount of money on deposit in said fund is reduced below the sum of One Hundred Thousand Dollars (\$100,000), in which event such payments shall be resumed and continue until said maximum amount is again accumulated. In addition to caring for extensions, additions, improvements, renewals and replacements necessary to properly operate the System, the money in the Contingencies Fund may also be used to pay the principal of and the interest on the Bonds for the payment of which there is not sufficient money in the Debt Service Fund and Reserve Fund described in paragraphs (b) and (c) above, but the money in said Contingencies Fund shall never be used for the

making of improvements and extensions to the System or for payment of principal or interest on Bonds if the use of said money will leave in said Contingencies Fund for the making of emergency repairs or replacements less than the sum of Twenty-Five Thousand Dollars (\$25,000).

As long as the City is in compliance with the mandatory rate covenant provide for in Section 19 below, any moneys remaining in the Utilities System Fund on the 20th day of each month and after making the required payments into the Sinking Fund, the respective accounts in the Reserve Fund and into the Contingencies Fund for the current month and for prior months during which the required payments may not have been made shall be considered surplus. In the event the City failed to comply with such rate covenant in the prior Fiscal Year, such monies shall not be considered surplus until a later audit of the City's financial records shows that the City is again in compliance. Such surplus may be used by the City for such other lawful corporate purposes as the Governing Authority may determine, whether such purposes are or are not related to the System except as such expenditures are limited by the City's Charter then in effect..

SECTION 16. Replenishment of Funds. If at any time it shall be necessary to use moneys in any account of the Reserve Fund, if any, or the Contingencies Fund for the purpose of paying principal of or interest on bonds payable from the Debt Service Fund as to which there would otherwise be default, then the moneys so used shall be replaced from the revenues of the System first thereafter received, not hereinabove required to be used for the purposes described in (a) and (b) above. If at any time there are sufficient moneys on deposit in the Debt Service Fund, Reserve Fund and Contingencies Fund to retire all outstanding bonds payable from the Debt Service Fund by defeasance, by exercising the prepayment option provided by such bonds or by purchase on the open market, the City may utilize such funds for such purpose. If more than one account of the Reserve Fund is required to be replenished, then such replenishment shall be made ratably to each such account in proportion to the remaining amount that is required to be so replenished.

SECTION 17. Notification of Deficiencies. As required by La. R.S. 39:510 the City will notify the State Bond Commission in writing, whenever (i) any required deposit to the Debt Service Fund has not been made within five business days of when due or (ii) the principal, interest, premium, or any other payment due on the Bonds (including the Administrative Fee) has not been made within five (5) business days of when due.

SECTION 18. Investments. All or any part of the moneys in the Revenue Fund and the Debt Service Fund shall at the written request of the Governing Authority be invested in Qualified Investments and all of the moneys in the Reserve Fund shall be invested in Government Securities maturing in five (5) years or less, in which event all income derived from such investments shall be added to the Revenue Fund, with the exception that any interest earnings from invested funds of the Reserve Fund shall be retained therein until an amount equal to the Reserve Fund Requirement is on deposit therein, and such investments shall, to the extent at any time necessary, be liquidated and the proceeds thereof applied to the purposes for which the respective fund has been created.

SECTION 19. Rate Covenant. The City, through its Governing Authority, by proper resolutions and/or ordinances, hereby covenants to fix, establish and maintain such rates and collect such fees, rents or other charges for the services and facilities of the System, and all parts thereof, and to revise the same from time to time whenever necessary, as will always provide revenues in each year sufficient to pay the reasonable and necessary expenses of operating and maintaining the System in each year, the principal and interest maturing on the Bonds and the Outstanding Parity Bonds in each year, all reserves or sinking funds or other payments required for such year by this Bond Ordinance, and all other obligations or indebtedness payable out of the revenues of the System for such year, and which will provide revenues in each year, after paying all reasonable and necessary expenses of operating and maintaining the System, at least equal to One Hundred Twenty-Five Percent (125%) of the largest amount of principal and interest maturing on the Bonds and the Outstanding Parity Bonds in any future Bond Year and on any Additional Parity Bonds hereafter issued as provided herein.

SECTION 20. Issuance of Refunding and Additional Parity Bonds. All of the Bonds issued hereunder shall enjoy complete parity of lien on the Net Revenues and moneys in the Debt Service Fund, despite the fact that any of the Bonds may be delivered at an earlier date than any other of the Bonds. The City, acting through its governing authority, hereby covenants that it will issue no other bonds or obligations of any kind or nature payable from or enjoying a lien on the Net Revenues or moneys in the Debt Service Fund or any account in the Reserve Fund having priority over or parity with the Bonds, except that Additional Parity Bonds may hereafter be issued on a parity with the Bonds under the following conditions:

- (a) The Outstanding Parity Bonds and/or Bonds, or any part thereof, including interest, may be refunded, and the refunding bonds so issued shall enjoy complete equality of lien with the portion of the Outstanding Parity Bonds and/or the Bonds which is not refunded, if there be any, and the refunding bonds shall continue to enjoy whatever priority of lien over subsequent issues may have been enjoyed by the Outstanding Parity Bonds and/or the Bonds refunded; provided, however, that if only a portion of the Outstanding Parity Bonds and/or the Bonds outstanding is so refunded and the refunding bonds require total principal and interest payments during any Bond Year in excess of the principal and interest which would have been required in such year to pay the Outstanding Parity Bonds and/or the Bonds refunded thereby, then such Outstanding Parity Bonds and/or Bonds may not be refunded without the consent of the owners of the unrefunded portion of the Outstanding Parity Bonds and/or the Bonds (provided that such consent shall not be required if the refunding bonds meet the requirements of (b) below instead).
- (b) Additional Parity Bonds may also be issued on a parity with the Outstanding Parity Bonds and the Bonds if all of the following conditions are met:
  - (i) The average Net Revenues for the two (2) completed Fiscal Years immediately preceding the issuance of such Additional Parity Bonds is equal to at least one hundred twenty-five percent (125%) of the highest combined principal and interest requirements in any succeeding Fiscal Year on the Outstanding Parity Bonds, the Bonds and the proposed Additional Parity Bonds, and any other bonds then outstanding which are

payable from the Net Revenues of the System (but not including bonds which have been refunded or provisions otherwise made for their full and complete payment and redemption), and the Additional Parity Bonds so proposed to be issued. In making the calculation required by this subparagraph (b)(i), if the City has adopted higher rates for services of the System on or before the date of issuance of the Additional Parity Bonds, then the calculation of average annual Net Revenues for the previous two completed Fiscal Years may be made assuming such higher rates had been in effect during such period.

- (ii) There must be no delinquencies in the payments required to be made into the various funds provided in Section 15 hereof.
- (iii) The existence of the facts required by paragraphs (i) and (ii) above must be determined and certified to by the Mayor and the Council Administrator of the City, or by an independent firm of certified public accountants.
- (iv) The proceeds of the Additional Parity Bonds must be used solely for the making of improvements, extensions, renewals, replacements or repairs to the System, or for refunding prior bonds issued for such purposes.
- (v) If required in connection with the issuance of the Additional Parity Bonds, the City shall make provisions in the ordinance(s) authorizing such Additional Parity Bonds for the establishment and funding of a separate account in the Reserve Fund with respect to such Additional Parity Bonds in accordance with Section 15(c) above.
- (vi) No Additional Parity Bonds may be issued should any event of default under this Bond Ordinance or the Outstanding Parity Bond Ordinance(s) have occurred and be continuing.
- (vii) The Additional Parity Bonds shall be payable annually as to principal on the same Principal Payment Date as the Bonds and payable as to interest semi-annually on the same Interest Payment Dates as the Bonds, or shall be payable in monthly installments of both principal and interest.

SECTION 21. Schedule of Rates and Charges. The City may alter, amend or repeal from time to time any resolutions or ordinances establishing a schedule of rates and charges for the services and facilities to be rendered by the System, said alterations, amendments or repeals to be conditioned upon the preservation of the rights of the owners of the Outstanding Parity Bonds and the Bonds with respect to the income and revenues of the System, not alone for the payment of the principal of and the interest on the Outstanding Parity Bonds and the Bonds, but to insure that the income and revenues of the System shall be sufficient at all times to fulfill the other provisions specified in Section 15 hereof. No discrimination shall be made as to rates and charges for the services and facilities of the System as between users of the same type or class.

The City shall fix and maintain rates and collect charges for all services and facilities to be rendered by the System, irrespective of the user thereof, and no free services or facilities shall be furnished to any person, association of persons, or corporation, public or private, or even to the City itself, other than water delivered to fire hydrants for firefighting purposes.

The City further agrees that the failure of any individual, partnership, corporation or other entity to pay said charge for any service rendered by the System within fifteen (15) days of the date on which it is due shall cause such charge to become delinquent; that if such delinquent charge, with interest and penalties accrued thereon, is not paid within fifteen (15) days from the date on which it became delinquent, the City will take steps to cause water service to be shut off to the affected premises; and that the City and this Governing Authority and its officials, agents and employees will do all things necessary and will take advantage of all remedies afforded by law to collect and enforce the prompt payment of all charges made for services rendered by the System. All delinquent charges for service shall on the date of delinquency have added thereto a penalty in such amount as may be determined by this Governing Authority, and the amount so due, including the penalty charge, may, in the discretion of this Governing Authority, after ten (10) days from the date of the delinquency, bear interest at a reasonable rate to be established by the Governing Authority, which rate shall not be less than six per centum (6%) per annum. If services are discontinued as above provided, the customer shall, in addition to paying the delinquent charges, penalties and interest, pay as a condition precedent to the resumption of service a reasonable reconnection charge.

It is further understood and agreed that the schedule of rates, fees, rents and other charges being charged as of the date of the adoption of this Bond Ordinance for services and facilities rendered by the System shall remain in effect and neither said existing schedule nor any subsequent schedule shall be reduced at any time unless all payments required for all funds by this Bond Ordinance, including any deficiencies for prior payments, have been fully made, and unless such schedule as so reduced will in each year thereafter produce sufficient revenues to meet and fulfill the other provisions stated and specified in Section 15 of this Bond Ordinance.

SECTION 22. Rights of Bondholders; Appointment of Receiver in Event of Default. The Owners from time to time shall be entitled to exercise all rights and powers for which provision is made in the laws of the State of Louisiana. Any Owners or any trustee acting for such Owners in the manner hereinafter provided, may, either at law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State of Louisiana, or granted and contained in this Bond Ordinance, and may enforce and compel the performance of all duties required by this Bond Ordinance, or by any applicable statutes to be performed by the City or by any agency, board or officer thereof, including the fixing, charging and collecting of rentals, fees or other charges for the use of the System and in general to take any action necessary to most effectively protect the right of the Owners.

In the event that default shall be made in the payment of the interest on or the principal of any of the Bonds as the same shall become due, or in the making of the payments into any of the funds or accounts described in Section 15 above, or any other payments required to be made by



this Bond Ordinance, or in the event that the City or any agency, board, officer, agent or employee thereof shall fail or refuse to comply with the provisions of this Bond Ordinance or shall default in any covenant made herein, and in the further event that any such default shall continue for a period of thirty (30) days after written notice, any Owner of such Bonds or any trustee appointed to represent such Owners as hereinafter provided, shall be entitled to the appointment of a receiver of the System in an appropriate judicial proceeding in a court of competent jurisdiction.

The receiver so appointed shall forthwith directly or by his agents and attorneys, enter into and upon and take possession of the System, and each and every part thereof, and shall hold, operate and maintain, manage and control the System, and each and every part thereof, and in the name of the City shall exercise all the rights and powers of the City with respect to the System as the City itself might do. Such receiver shall collect and receive all rates, fees, rentals and other revenues, shall maintain and operate the System in the manner provided in this Bond Ordinance, and shall comply under the jurisdiction of the court appointing such receiver, with all of the provisions of this Bond Ordinance.

Whenever all that is due upon the Bonds and interest thereon, and under any covenants of this Bond Ordinance for reserve, sinking or other funds, and upon any other obligations and interest thereon, having a charge, lien or encumbrance upon the fees, rentals or other revenues of the System, shall have been paid and made good, and all defaults under the provisions of this Bond Ordinance shall have been cured and made good, possession of the System shall be surrendered to the City upon the entry of an order of the court to that effect. Upon any subsequent default, any Owner of Bonds, or any trustee appointed for Owners as hereinafter provided, shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him by and under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court, and may be removed thereby and a successor receiver appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the City and for the joint protection and benefit of the City and the Owners. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any property of any kind or character belonging or pertaining to the System but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the City and the Owners and the curing and making good of any default under the provisions of this Bond Ordinance, and the title to and the ownership of the System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any property of the System except with the consent of the City and in such manner as the court shall direct.

The Owner or Owners of Bonds in an aggregate principal amount of not less than twenty-five percent (25%) of the Bonds then outstanding may by a duly executed certificate appoint a trustee for the Owners with authority to represent such Owners in any legal proceedings for the enforcement and protection of the rights of such Owners. Such certificate shall be executed by such Owners, or by their duly authorized attorneys or representatives, and shall be filed in the office of the Council Administrator of the City.

UNTIL AN EVENT OF DEFAULT SHALL HAVE OCCURRED, THE CITY SHALL RETAIN FULL POSSESSION AND CONTROL OF THE SYSTEM WITH FULL RIGHT TO MANAGE, OPERATE AND USE THE SAME AND EVERY PART THEREOF WITH THE RIGHTS APPERTAINING THERETO, AND TO COLLECT AND RECEIVE AND, SUBJECT TO THE PROVISIONS OF THIS BOND ORDINANCE, TO TAKE, USE AND ENJOY AND DISTRIBUTE THE EARNINGS, INCOME, RENT, ISSUE AND PROFITS ACCRUING ON OR DERIVABLE FROM THE SYSTEM.

SECTION 23. Specific Covenants. The City does hereby covenant and warrant so long as any of the Bond is outstanding and unpaid in principal and/or interest:

(a) That it is or will be lawfully seized and possessed of the System, that it has a legal right to pledge the income and revenues of the System as herein provided, and that the Bond will have a lien and privilege on said income and revenues, subject only to the prior payment of all reasonable and necessary expenses of operating and maintaining the System.

(b) That it will at all times maintain the System in first-class repair and working order and condition.

(c) That it will carry full coverage of insurance on the System at all times against those risks and in those amounts normally carried by privately owned public utility companies engaged in the operation of such utilities. Said policies of insurance shall be issued by a responsible insurance company or companies duly licensed to do business under the laws of the State of Louisiana. In case of loss, any insurance money received by the City shall be used for the purpose of promptly repairing or replacing the property damaged or destroyed.

(d) That it will not sell, lease or in any manner dispose of the System or any substantial part thereof, provided that the City may dispose of property which in its judgment is worn-out, unserviceable, unsuitable, or unnecessary in the operation of the System, when other property of equal value is substituted therefor, or the proceeds derived from the disposal of such property are used for constructing and acquiring extensions and improvements to the System or repairing the System.

(e) That except as provided in Section 20 hereof, it will not voluntarily create or cause to be created any debt, lien, pledge, mortgage, assignment, encumbrance, or any other charges having priority over or parity with the lien of the Bonds upon the income and revenues of the System pledged as security therefor.

(f) That, to the extent permitted by law, it will not grant a franchise to any other company or organization for operation within the boundaries of the City which would render

services or facilities in competition with the System, and will oppose the granting of such franchise by any other public body having jurisdiction over such matters.

(g) That, so long as any of the Bonds are outstanding and unpaid in principal or interest, the City shall not sell, lease, encumber or in any manner dispose of the System or any substantial part thereof; provided, however, that this covenant shall not be construed to prevent the disposal by the City of property which in its judgment has become worn out, unserviceable, unsuitable or unnecessary in the operation of the System, when other property of equal value is substituted therefor.

SECTION 24. Audit Requirements. The City will establish and maintain adequate financial records as required by the laws of the State governing financial record-keeping by political subdivisions and in accordance with generally accepted accounting principles (“GAAP”) and will make these and the following records and reports available to the Owners or their authorized representatives upon request.

The City will cause an audit of its financial statements to be made by an independent firm of certified public accountants in accordance with the requirements of Chapter 8 of Title 24 of the Louisiana Revised Statutes of 1950, as amended, and for so long as the Department owns the Bonds, or any part thereof, in accordance with the requirements of the Single Audit Act Amendments of 1996 and OMB’s Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR 200, Subpart F), and Section 66.458 of the Catalog of Federal Domestic Assistance (CFDA #66.458 - Capitalization Grants for State Revolving Funds) , if applicable. Upon completion, but in no event later than six (6) months after the close of the applicable Fiscal Year, the City shall file a copy of such audited financial statements with any Owner requesting same.

SECTION 25. Fidelity Bonds for Officers and Employees. So long as any of the Bonds are outstanding and unpaid, the City shall require all of its officers and employees who may be in a position of authority or in possession of money derived from the collection of Net Revenues, to obtain or be covered by a blanket fidelity or faithful performance bond, or independent fidelity bonds written by a responsible indemnity company in amounts adequate to protect the City from loss.

SECTION 26. Retention and Duties of Consulting Engineer in Event of Failure to Make Required Payments. THE PROVISIONS OF THIS SECTION SHALL APPLY ONLY DURING ANY PERIOD WHEN THE CITY MAY BE IN DEFAULT IN MAKING REQUIRED PAYMENTS INTO THE FUNDS REQUIRED BY SECTION 15 OF THIS BOND ORDINANCE.

The City covenants and agrees that in the event it should fail to derive sufficient income from the operation of the System to make the required monthly payments into the funds established by Section 15 hereof, it will retain a Consulting Engineer on a continuous basis until all defaults are cured, for the purpose of providing for the City continuous engineering counsel in the operation of its System. Such Consulting Engineer shall be retained under contract at such reasonable compensation as may be fixed by this Governing Authority, and the payment of such compensation shall be considered to be one of the costs of maintaining and operating the System.

Any Consulting Engineer appointed under the provisions of this Section may be replaced at any time by another Consulting Engineer appointed or retained by the City, with the consent and approval of the Owners of the Bonds.

The Consulting Engineer shall prepare within ninety (90) days after the close of each Fiscal Year a comprehensive operating report, which report shall contain therein or be accompanied by a certified copy of an audit of the preceding Fiscal Year prepared by the City's certified public accountants, and in addition thereto, shall report upon the operations of the System during the preceding Fiscal Year, the maintenance of the properties, the efficiency of the management of the System; the property and adequate keeping of books of record and account, the adherence to budget and budgetary control provisions, the adherence to the provisions of this Bond Ordinance and all other things having a bearing upon the efficient and profitable operation of the System, and shall include whatever criticism of any phase of the operation of the System the Consulting Engineer may deem proper, and such recommendations as to changes in operations and the making of repairs, renewals, replacements, extensions, betterments and improvements as the Consulting Engineer may deem proper. Copies of such report shall be placed on file with the Secretary of this Governing Authority and sent to the Owner of the Bonds, and shall be open to inspection by any Owners of any of the Bonds. It shall be the duty of the Consulting Engineer to pass upon the economic soundness or feasibility of any extensions, betterments, improvements, expenditures or purchases of equipment and materials or supplies, which will involve the expenditure of more than Ten Thousand Dollars (\$10,000), whether in one or more than one order, and whether authorized by a budget or not, and the Consulting Engineer shall devise and prescribe form or forms wherein shall be set forth his or its approval in certificate form, copies of which shall be filed with the Secretary of the Governing Authority.

Sixty (60) days before the close of each Fiscal Year, the Consulting Engineer shall submit to this Governing Authority a suggested budget for the ensuing year's operation of the System and shall submit recommendations as to the schedule of rates and charges for services supplied by the System, taking into account any other lawfully available funds of the City that may be available of such purposes. A copy of said suggested budget and recommendations shall also be furnished by said Consulting Engineer directly to the Owner. Such recommendations as to rates and charges consistent with the requirements relating thereto contained herein, shall be followed by this Governing Authority insofar as practicable and all other recommendations shall be given careful consideration by this Governing Authority and shall be substantially followed, except for good and reasonable cause. No expenditures for the operation, maintenance and repair of the System in excess of the amounts stated in said budget shall be made in any year, except upon the certificate of the Consulting Engineer that such expenditures are necessary and essential to the continued operation of the System.

It shall be the duty of the Consulting Engineer to prescribe a system of budgetary control along with forms for exercising of such control which shall be utilized by the manager or superintendent of the System and his staff and the manager or superintendent shall cause to prepare monthly reports not later than the twentieth (20th) day of each month, for the preceding months business and operation of the System, which reports shall be submitted to the Consulting Engineer, who shall prepare an analysis of each such report, which analysis

shall be filed monthly as expeditiously as possible with the chief financial officer of the City, the Mayor and with the Owner or Owners.

In the event this Governing Authority shall fail to select and retain a Consulting Engineer in accordance with the first paragraph of this Section within thirty (30) days after the occurrence of the conditions prescribed thereby, then upon the petition of the Owners of the twenty-five percent (25%) of the aggregate principal amount of the Bonds then outstanding, this Governing Authority shall select and retain such Consulting Engineer as is named in the petition of said Owners.

SECTION 27. Discharge of Bond Ordinance. If the City shall pay or cause to be paid, or there shall be paid to the Owners, the principal (and redemption price) of and interest on the Bonds, at the times and in the manner stipulated in this Bond Ordinance are paid in full for all amounts due and owing, then the pledge of the Net Revenues or any other money, securities, and funds pledged under this Bond Ordinance and all covenants, agreements, and other obligations of the City to the Owners shall thereupon cease, terminate, and become void and be discharged and satisfied.

SECTION 28. Defeasance. Bonds or interest installments for the payment or redemption of which money shall have been set aside and shall be held in trust (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 above in this Section, if they have been defeased pursuant to Chapter 14-A of Title 39 of the Louisiana Revised Statutes of 1950, as amended, or any successor provisions thereto.

SECTION 29. Cancellation of Bonds. All Bonds paid or prepaid either at or before maturity, together with all bonds purchased by the City, shall thereupon be promptly cancelled by the Paying Agent. The Paying Agent shall thereupon promptly furnish to the Council Administrator of the Governing Authority an appropriate certificate of cancellation.

SECTION 30. Lost, Destroyed or Improperly Cancelled Bonds. Lost, destroyed or improperly cancelled Bonds may be replaced in the manner set forth in La. R.S. 39:515. In case any such lost, destroyed or improperly cancelled Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Bond, pay such Bond.

SECTION 31. Successor Paying Agent; Paying Agent Agreement. The City will at all times maintain a Paying Agent for the performance of the duties hereunder for the Bonds. The designation of the initial Paying Agent in this Bond Ordinance is hereby confirmed and approved. The City reserves the right to appoint a successor Paying Agent by (a) filing with the Person then performing such function a certified copy of a resolution or ordinance giving notice of the termination and appointing a successor and (b) causing notice to be given to each Owner. Every successor Paying Agent appointed hereunder shall at all times be an officer of the City or a bank or trust company organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise trust powers, and subject to supervision or examination by Federal or State authority. The Authorized Officer are hereby authorized and directed to execute an appropriate agreement with the Paying Agent for and on behalf of the City in such form as may be satisfactory to said officers, the signatures of said

officers on such Agreement to be conclusive evidence of the due exercise of the authority granted hereunder. No resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of Paying Agent.

SECTION 32. Notices to Owners. Wherever this Bond Ordinance provides for notice to Owners of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to each Owner of such Bonds, at the address of such Owner as it appears in the Bond Register. In any case where notice to Owners is given by mail, neither the failure to mail such notice to any particular Owner, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Bond Ordinance provides for notice in any manner, such notice may be waived in writing by the Owner entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Owners shall be filed with the Paying Agent, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 33. Publication; Peremption. This Bond Ordinance shall be published at least once in the official journal of the City, or in a newspaper having general circulation in the City. Exhibits to this Bond Ordinance need not be published if the exhibits are enumerated in the publication and it is stated in the publication that such exhibits are available for public inspection at the office of the Governing Authority during regular business hours. For thirty days after the date of publication, any person in interest may contest the legality of this Bond Ordinance and of any provision herein made for the security and payment of the Bonds. After that time, no one shall have any cause of action to test the regularity, formality, legality, or effectiveness of this Bond Ordinance, and provisions hereof for any cause whatever. Thereafter, it shall be conclusively presumed that every legal requirement for the issuance of the Bonds, has been complied with. No court shall have authority to inquire into any of these matters after the thirty days.

SECTION 34. Disclosure Under SEC Rule 15c2-12. The City is not required at this time to comply with the continuing disclosure requirements described in the Rule 15c2-12(b) of the Securities and Exchange Commission [17 CFR '240.15c2-12(b)], because:

(a) the Bonds are not being purchased by a broker, dealer or municipal securities dealer acting as an underwriter in a primary offering of municipal securities; and

(b) the Bonds are in denominations of One Hundred Thousand Dollars (\$100,000) or more and are being sold to no more than one financial institution or sophisticated investor which (i) have such knowledge and experience in financial and business matters that they are capable of evaluating the merits and risks of the prospective investment in the Bonds and (ii) are not purchasing said Bonds for more than one account or with a view to distributing same.

SECTION 35. Severability. In case any one or more of the provisions of this Bond Ordinance or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Bond Ordinance or of the Bonds, but this Bond Ordinance and the Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. Any constitutional or statutory provision

enacted after the date of this Bond Ordinance which validates or makes legal any provision of this Bond Ordinance or the Bonds which would not otherwise be valid or legal shall be deemed to apply to this Bond Ordinance and to the Bonds.

SECTION 36. Section Headings. The headings of the various sections hereof are inserted for convenience of reference only and shall not control or affect the meaning or construction of any of the provisions hereof.

SECTION 37. Effective Date. This Bond Ordinance shall become effective upon signature of the Mayor, or, in the event of veto, upon re-adoption by the Governing Authority.

[Remainder of this page intentionally left blank]

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS:

NAYS:

ABSENT:

ABSTAIN:

And the ordinance was declared adopted, on this, the 6th day of August, 2019.

\_\_\_\_\_  
Jennifer Morvant, Council Administrator

\_\_\_\_\_  
Chad J. Mire, Council President

Delivered to the Mayor on \_\_\_\_\_, 2019, at \_\_\_\_\_ .m.

APPROVED: \_\_\_\_\_

VETOED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Returned to the Council Administrator on \_\_\_\_\_, 2019, at \_\_\_\_\_ .m.

\_\_\_\_\_  
Jennifer Morvant, Council Administrator



**EXHIBIT A  
to Bond Ordinance**

**[FORM OF BOND]**

**INTEREST ON THIS BOND WILL BE INCLUDED IN GROSS INCOME  
FOR FEDERAL INCOME TAX PURPOSES AND IS NOT  
EXEMPT FROM FEDERAL INCOME TAXATION.**

**UNITED STATES OF AMERICA  
STATE OF LOUISIANA  
PARISH OF LAFOURCHE**

**TAXABLE UTILITIES REVENUE BOND, SERIES 2019  
OF THE  
CITY OF THIBODAUX, STATE OF LOUISIANA**

<u>Bond Number</u>	<u>Bond Date</u>	<u>Interest Rate</u>	<u>Principal Amount</u>
R-1	_____, 2019	0.45%	\$6,510,000

FOR VALUE RECEIVED, the City of Thibodaux, State of Louisiana (the “*City*”), hereby promises to pay (but only from the sources hereinafter described) to:

REGISTERED OWNER: Department of Environmental Quality (the “*Department*”)  
Attn: Financial Services Division, Accounts Receivable  
P. O. Box 4311  
Baton Rouge, Louisiana 70821-4311

or registered assigns noted on the registration record attached hereto, the Principal Amount set forth above (unless a lower Principal Amount applies, as set forth below), together with interest thereon from the Bond Date set forth above or the most recent interest payment date to which interest has been paid or duly provided for, unless this Bond shall have been previously called for prepayment and payment shall have been duly made or provided for.

This Bond shall bear interest, payable semi-annually on March 1 and September 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_ (each, an “*Interest Payment Date*”), at the Interest Rate shown above, said interest to be calculated on the basis of a 360-day year consisting of twelve 30-day months. Interest on this Bond on any Interest Payment Date shall be payable only on the aggregate outstanding amount of the purchase price which shall have been paid theretofore, as noted on Schedule A hereto, and shall accrue with respect to each purchase price installment only from the date of payment of such installment.

If the Department is the registered owner of this Bond, the City will additionally pay an Administrative Fee to the Department at the annual rate of one-half of one percent (0.50%) on the outstanding principal amount of the Bond, payable on each Interest Payment Date. In the event (i) the Department owns this Bond or the Department has pledged or assigned this Bond in connection with its Clean Water State Revolving Fund Program and (ii) the Administrative Fee payable to the Department is declared illegal or unenforceable by a court or an administrative body of competent jurisdiction, then the “*Interest Rate*” shown above and borne by this Bond shall be increased by one-half of one percent (0.5%) per annum, effective as of the date declared to be the date from which the Administrative Fee is no longer owed because of such illegality or unenforceability.

This Bond shall mature in twenty (20) installments of principal, payable annually on each March 1, and each annual installment shall be the applicable percentage shown in the following table, rounded to the nearest One Thousand Dollars (\$1,000), of the outstanding principal amount of this Bond on the day before the applicable Principal Payment Date:

<u>Date</u> <u>(March 1)</u>	<u>Percentage</u> <u>of Principal</u>	<u>Date</u> <u>(March 1)</u>	<u>Percentage</u> <u>of Principal</u>
2021	4.564%	2031	9.580%
2022	4.827	2032	10.696
2023	5.120	2033	12.090
2024	5.448	2034	13.884
2025	5.817	2035	16.275
2026	6.235	2036	19.624
2027	6.712	2037	24.647
2028	7.264	2038	33.019
2029	7.907	2039	49.764
2030	8.667	2040	100.000

In the event that the Completion Date of the Project is on or after the first Principal Payment Date stated in the Bonds, the principal payment schedule set forth above may be adjusted so that each payment shall be due on the March 1 that is one year later than shown above, provided that in no event shall the final principal payment be more than twenty-two (22) years from the Delivery Date. To exercise the option to defer the principal repayment schedule, the City must so notify the Department in writing prior to September 1, 2020, and certify that the Completion Date will not have occurred prior to March 1, 2021.

The principal and interest on this Bond shall be payable by check mailed to the registered owner of this Bond (determined as of the Interest Payment Date) at the address shown on the registration books kept by the Paying Agent (hereinafter defined) for such purpose, provided that payment of the final installment of principal on this Bond shall be made only upon presentation and surrender of this Bond to the Paying Agent.

The principal installments of this Bond are subject to prepayment at the option of the City at any time, in whole or in part, at a prepayment price of par plus accrued interest and accrued Administrative Fee, if any, to the prepayment date. In such case, the remaining principal shall continue to mature in annual installments calculated using the percentages shown above.

In the event a portion of this Bond is to be prepaid, this Bond shall be surrendered to the Council Administrator of the City, as initial Paying Agent for the Bonds (the “**Paying Agent**”), who shall note the amount of such prepayment in the space provided therefor on the schedule attached to this Bond. Official notice of such call of this Bond for prepayment shall be given by means of first class mail, postage prepaid by notice deposited in the United States Mail not less than thirty (30) days prior to the prepayment date addressed to the registered owner of this Bond to be prepaid at his address as shown on the registration books of the Paying Agent, which notice may be waived by any registered owner. The City shall cause to be kept at the office of the Paying Agent a register in which registration of this Bond and of transfer of this Bond shall be made as provided herein and in the Bond Ordinance (hereinafter defined). This Bond may be transferred, registered and assigned only on such registration records of the Paying Agent, and such registration shall be at the expense of the City.

This Bond represents the entire issue of bonds of the City designated “*Taxable Utilities Revenue Bond, Series 2019*” aggregating in principal the sum of Six Million Five Hundred Ten Thousand Dollars (\$6,510,000) (the “**Bonds**”), having been issued by the City pursuant to an ordinance adopted by its governing authority on August 6, 2019 (the “**Bond Ordinance**”), for the purpose of financing the cost of acquisition, construction and installation of improvements, extensions and replacements to the wastewater treatment and disposal portion of the City’s combined wastewater treatment and disposal system and natural gas distribution system (the “**Project**”), and for paying costs of issuance, under the authority conferred by R.S. 39:524, and Sub-Part A, Part II, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended, and other constitutional and statutory authority supplemental thereto, pursuant to all requirements therein specified.

This Bond, equally with the City’s Taxable Utilities Revenue Bonds, Series 2013 (the “**Outstanding Parity Bonds**”), is secured by and payable as to principal and interest solely from the income and revenues derived or to be derived from the operation of the combined drinking water and wastewater collection, treatment and disposal system of the City (the “**System**”), after provision has been made for payment therefrom of the reasonable and necessary expenses of operating and maintaining the System. Neither this Bond nor the debt it represents constitutes an indebtedness or pledge of the general credit of the City, within the meaning of any constitutional or statutory limitation of indebtedness.

The City has obligated itself pursuant to the ordinances adopted in connection with the issuance of the Outstanding Parity Bonds (the “**Outstanding Parity Bond**”

**Ordinance**”) and the Bond Ordinance and by this Bond declares that all of the income and revenues to be derived from the operation of the System shall be deposited promptly as the same may be collected in a separate and special bank account known and designated as the “*Utilities System Revenue Fund*.” The City has duly covenanted and obligated itself pursuant to the Outstanding Parity Bond Ordinance and the Bond Ordinance and by this Bond declares that it will fix and maintain rates and collect charges for all services and facilities to be rendered by the System sufficient to provide for the payment of the reasonable and necessary expenses of operating and maintaining the System, to provide for the payment of principal and interest falling due on the Outstanding Parity Bonds, this Bond and all other obligations or indebtedness payable out of the revenues of the System, to provide a reserve for the payment of principal and interest on the Outstanding Parity Bonds and this Bond and to provide a reasonable depreciation and contingency fund to care for depreciation, extensions, additions, improvements and replacements necessary to properly operate the System.

For a complete statement of the manner in which said fund shall be maintained and administered, the provisions for payment of the Outstanding Parity Bonds and this Bond and the general covenants and provisions governing the issuance of the Outstanding Parity Bonds and this Bond, reference is hereby made to the Outstanding Parity Bond Ordinance and the Bond Ordinance.

It is certified that this indebtedness is authorized by and is issued in conformity with the requirements of the Constitution and statutes of Louisiana. It is further certified, recited and declared that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond necessary to constitute the same a legal, binding and valid obligation of the City have existed, have happened and have been performed in due time, form and manner as required by law, and that the indebtedness of the City, including this Bond, does not exceed any limitation prescribed by the Constitution and statutes of the State of Louisiana, and that this Bond shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the City Council of the City of Thibodaux, State of Louisiana, acting as the governing authority of the City, has caused this Bond to be signed by its Mayor and attested by its Council Administrator, the corporate seal of the City to be hereon impressed and this Bond to be dated as of the Dated Date set forth above.

**CITY OF THIBODAUX,  
STATE OF LOUISIANA**

ATTEST:

By: \_\_\_\_\_ (manual)  
Mayor

By: \_\_\_\_\_ (manual) (SEAL)  
Council Administrator

\* \* \* \* \*

<b><u>REGISTRATION RECORD</u></b>		
<b>CITY OF THIBODAUX, STATE OF LOUISIANA TAXABLE UTILITIES REVENUE BOND, SERIES 2019</b>		
Name and Address Of Registered Owner	Date of Registration	Signature of Council Administrator As Paying Agent
Department of Environmental Quality Clean Water State Revolving Fund P.O. Box 4311 Baton Rouge, La. 70821-4311		

**SCHEDULE OF PREPAYMENTS**

**CITY OF THIBODAUX, STATE OF LOUISIANA  
TAXABLE UTILITIES REVENUE BOND,  
SERIES 2019**

Prepayment Date	Prepayment Amount	Remaining Balance Due

**SCHEDULE A**  
**SCHEDULE OF PURCHASE PRICE PAYMENTS**

**CITY OF THIBODAUX, STATE OF LOUISIANA**  
**TAXABLE UTILITIES REVENUE BOND,**  
**SERIES 2019**

No.	Date of Payment	Amount of Payment	Pursuant to Requisition No.	Cumulative Outstanding Principal Amount
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				

**EXHIBIT B  
to Bond Ordinance**

**FORM OF LOAN AND PLEDGE AGREEMENT**



**PARITY CERTIFICATION**

**\$6,510,000  
CITY OF THIBODAUX, STATE OF LOUISIANA  
TAXABLE UTILITIES REVENUE BOND,  
SERIES 2019**

Pursuant to Section 5.1(b) of the Bond Ordinance adopted on September 3, 2013 (the “**2013 Bond Ordinance**”) by the City Council of the City of Thibodaux, State of Louisiana (the “**City**”), the undersigned Mayor and Chief Financial Officer of the City do hereby certify as follows in connection with the issuance and delivery of the above-captioned issue of Taxable Utilities Revenue Bond, Series 2019 (the “**2019 Bonds**”):

1. Capitalized terms used in this certification shall have the meanings assigned thereto in the 2013 Bond Ordinance that authorized the issuance of the Outstanding Parity Bonds and the ordinance adopted on July 16, 2019 that authorized the issuance of the 2019 Bonds.

2. The undersigned have reviewed the financial statements of the City for the fiscal years ended December 31, 2017 and 2018.

3. The average Net Revenues of the System for the two completed Fiscal Years immediately preceding the year in which the Bonds are to be issued (i.e. the fiscal years ending December 31, 2017 and 2018) are equal to at least 125% of the highest combined principal and interest requirements on the City’s outstanding Taxable Utilities Revenue Bond, Series 2013, and the 2019 Bonds, which are both payable from the revenues of the System, as demonstrated by the following calculation made by the undersigned certified public accountants.

Net Revenues for FY2017	\$ _____
Net Revenues for FY2018	\$ _____
Average Net Revenues for FY2017/2018	\$ _____
Highest combined debt service requirements on Outstanding Parity Bonds and the Bonds	\$ _____
Coverage Ratio	_____

4. There are no delinquencies in the payments required to be made into the various funds provided for in the ordinances authorizing the Outstanding Parity Bonds.

5. No event of default relating to the Outstanding Parity Bonds has occurred or is continuing.

IN FAITH WHEREOF, witness our official signatures as of this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF THIBODAUX,  
STATE OF LOUISIANA**

By: \_\_\_\_\_ (manual)  
Mayor

**NAME OF CPA/FIRM:**

\_\_\_\_\_

By: \_\_\_\_\_ (manual)  
Certified Public Accountant

STATE OF LOUISIANA  
PARISH OF LAFOURCHE

I, the undersigned Council Administrator of the City of Thibodaux, State of Louisiana, do hereby certify that the foregoing constitutes a true and correct copy of proceedings adopted by the City Council of said City on August 6, 2019, authorizing the issuance of not to exceed Six Million Five Hundred Ten Thousand Dollars (\$6,510,000) of Taxable Utilities Revenue Bonds, in one or more series, of the City of Thibodaux, State of Louisiana; authorizing the execution of a Loan and Pledge Agreement with the Louisiana Department of Environmental Quality (“*DEQ*”); providing for the sale and delivery of said Bonds to DEQ; prescribing the form, fixing the details and providing for the payment of principal of and interest on such Bonds; and providing for other matters in connection therewith.

IN FAITH WHEREOF, witness my official signature and the impress of the official seal of said City, on this, the 6th day of August, 2019.

(SEAL)

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Jennifer Morvant, Council Administrator