



MINUTES TO AUTHORIZE CALL OF
BONDS AND PROVIDE FOR THE
ISSUANCE OF BONDS

(Issuance-Revenue)

449124-32

Eldora, Iowa

August 18, 2020

The City Council of the City of Eldora, Iowa, met on August 18, 2020, at 6:00 o'clock p.m., at the City Hall Council Chamber, Eldora, Iowa.

The City Council met electronically via Zoom, which was accessible at the following:

Join Zoom Meeting

<https://us02web.zoom.us/j/84551385252?pwd=NTJMOEpCRHc5eWMvUkh3RStQSthrUT09>

Phone number: (312) 626-6799 Meeting ID: 845 5138 5252 Passcode: 499531

The City Council is conducting this meeting electronically due to federal and state government recommendations in response to COVID-19 pandemic conditions. Electronic access information was included in the posted agenda of this public meeting.

The Mayor presided and the roll was called showing the following members of the City Council present and absent:

Present: Hoy, Johns, Priske, Budweg and Jones

Absent: None

Other Business

After due consideration and discussion, Council Member Priske introduced the following resolution and moved its adoption, seconded by Council Member Budweg. The Mayor put the question upon the adoption of said resolution, and the roll being called, the following Council Members voted:

Ayes: Priske, Budweg, Johns, Jones and Hoy

Nays: None

Whereupon, the Mayor declared the resolution duly adopted, as hereinafter set out.

RESOLUTION NO. 08-20-2900

Resolution authorizing and approving a Loan Agreement and providing for the issuance and securing the payment of \$2,760,000 Sewer Revenue Refunding Bonds, Series 2020A

WHEREAS, the City of Eldora (the “City”), in Hardin County, State of Iowa, did heretofore establish a Municipal Sanitary Sewer System (the “Utility”) in and for the City which has continuously supplied sanitary sewer service in and to the City and its inhabitants since its establishment; and

WHEREAS, the management and control of the Utility are vested in the City Council, and no board of trustees exists for this purpose; and

WHEREAS, the City previously issued its \$5,660,000 Sewer Revenue Refunding Bonds, Series 2012, dated December 20, 2012 (the “2012 Bonds”), a portion of which remain outstanding, maturing on June 1 in each of the years and in such amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate Per Annum</u>
2021	\$400,000	1.85%
2022	\$410,000	2.00%
2023	\$420,000	2.15%
2024	\$425,000	2.30%
2025	\$435,000	2.40%
2026	\$445,000	2.50%
2027	\$460,000	2.60%

; and

WHEREAS, pursuant to the resolution (the “2012 Bond Resolution”) authorizing the issuance of the 2012 Bonds, the City reserved the right to prepay part or all of the 2012 Bonds maturing in each of the years 2021 to 2027 (the “Callable 2012 Bonds”), inclusive, prior to and in any order of maturity on June 1, 2020 or on any date thereafter, subject to the provisions of the 2012 Bond Resolution; and

WHEREAS, the City heretofore proposed to enter into a loan agreement (the “Loan Agreement”), and to borrow money thereunder in a principal amount not to exceed \$3,050,000, pursuant to the provisions of Section 384.24A of the Code of Iowa, for the purpose of paying the cost, to that extent, of current refunding the Callable 2012 Bonds, and has published notice of the proposed action and has held a hearing thereon on July 14, 2020; and

WHEREAS, a Preliminary Official Statement (the “P.O.S.”) has been prepared by Dorsey & Whitney LLP (the “Disclosure Counsel”), as bond and disclosure counsel to the City, to facilitate the sale of Sewer Revenue Refunding Bonds, Series 2020A (the “Bonds”) in evidence of the obligation of the City under the Loan Agreement, and the City Council has approved the P.O.S. and has authorized its use by Northland Securities, Inc. (the “Underwriter”), as underwriter of the issuance of the Bonds; and

WHEREAS, the City has determined to approve a commitment for municipal bond insurance policy with respect to the Bonds issued by Build America Mutual Assurance Company (“BAM”); and

WHEREAS, a certain bond purchase agreement (the “Bond Purchase Agreement”) has been prepared to set forth the terms of the Bonds and the understanding between the City and the Underwriter, and the City Council has approved the Bond Purchase Agreement and has made provision for its execution and delivery; and

WHEREAS, it is now necessary to make final provision for approval of the Loan Agreement and to authorize the issuance of the Bonds;

NOW, THEREFORE, Be It Resolved by the City Council of the City of Eldora, Iowa, as follows:

Section 1. The City shall enter into the Loan Agreement with the Underwriter in substantially the form attached hereto, providing for a loan to the City in the amount of \$2,760,000 for the purposes as set forth in the preamble hereof.

The Mayor and City Clerk are hereby authorized and directed to sign the Loan Agreement on behalf of the City, and the Loan Agreement is hereby approved.

Section 2. BAM is approved, and the Mayor and City Clerk (or their acting designees) are hereby authorized to execute and deliver any and all agreements, documents and instruments required related to the issuance of the municipal bond insurance related to the Bonds.

Section 3. The Bonds, in the aggregate principal amount of \$2,760,000, are hereby authorized to be issued in evidence of the obligation of the City under the Loan Agreement. The Bonds shall be dated September 2, 2020, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, and shall mature on June 1 in each of the years, in the respective principal amounts, and bear interest at the respective rates, as follows:

<u>Date</u>	<u>Principal</u>	<u>Interest Rate</u>	<u>Date</u>	<u>Principal</u>	<u>Interest Rate</u>
2021	\$405,000	2.00%	2025	\$425,000	2.00%
2022	\$400,000	2.00%	2026	\$430,000	2.00%
2023	\$410,000	2.00%	2027	\$275,000	2.00%
2024	\$415,000	2.00%			

Section 4. UMB Bank, n.a., West Des Moines, Iowa, is hereby designated as the Registrar and Paying Agent for the Bonds and may be hereinafter referred to as the “Registrar” or the “Paying Agent” in such capacities. The City shall enter into an agreement (the “Registrar/Paying Agent Agreement”) with the Registrar, in substantially the form as has been placed on file with the City Council; the Mayor and City Clerk are hereby authorized and directed to sign the Registrar/Paying Agent Agreement on behalf of the City; and the Registrar/Paying Agent Agreement is hereby approved.

The Bonds are not subject to redemption prior to maturity.

Accrued interest on the Bonds shall be payable semiannually on the first day of June and December in each year, commencing December 1, 2020. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months. Payment of interest on the Bonds shall be made to the registered owners appearing on the registration books of the City at the close of business on the fifteenth day of the month next preceding the interest payment date and shall be paid to the registered owners at the addresses shown on such registration books. Principal of the Bonds shall be payable in lawful money of the United States of America to the registered owners or their legal representatives upon presentation and surrender of the Bond or Bonds at the office of the Paying Agent.

The Bonds shall be executed on behalf of the City with the official manual or facsimile signature of the Mayor and attested with the official manual or facsimile signature of the City Clerk, and shall be fully registered Bonds without interest coupons. The issuance of the Bonds shall be recorded in the office of the City Treasurer, and the certificate on the back of each Bond shall be executed with the official manual or facsimile signature of the City Treasurer. In case any officer whose signature or the facsimile of whose signature appears on the Bonds shall cease to be such officer before the delivery of the Bonds, such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

The Bonds shall not be valid or become obligatory for any purpose until the Certificate of Authentication thereon shall have been signed by the Registrar.

All of the Bonds and the interest thereon, and any additional obligations as may be hereafter issued and outstanding from time to time ranking on a parity therewith under the conditions set forth herein (which additional obligations are hereinafter sometimes referred to as "Parity Obligations"), shall be payable solely from the Net Revenues of the Utility and the Sinking Fund hereinafter referred to, both of which are hereby pledged to the payment of the Bonds. The Bonds shall be a valid claim of the owners thereof only against said Net Revenues and Sinking Fund. None of the Bonds shall be a general obligation of the City, nor payable in any manner by taxation, and under no circumstances shall the City be in any manner liable by reason of the failure of the Net Revenues of the Utility to be sufficient for the payment in whole or in part of the Bonds and the interest thereon.

The Bonds shall be fully registered as to principal and interest in the names of the owners on the registration books of the City kept by the Registrar, and after such registration, payment of the principal thereof and interest thereon shall be made only to the registered owners, or their legal representatives or assigns. Each Bond shall be transferable only upon the registration books of the City upon presentation to the Registrar, together with either a written instrument of transfer satisfactory to the Registrar or the assignment form thereon completed and duly executed by the registered owner or the duly authorized attorney for such registered owner.

The record and identity of the owners of the Bonds shall be kept confidential as provided by Section 22.7 of the Code of Iowa.

Section 5. Notwithstanding anything above to the contrary, the Bonds shall be issued initially as Depository Bonds, with one fully registered Bond for each maturity date, in principal amounts equal to the amount of principal maturing on each such date, and registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York (“DTC”). On original issue, the Bonds shall be deposited with DTC for the purpose of maintaining a book-entry system for recording the ownership interests of its participants and the transfer of those interests among its participants (the “Participants”). In the event that DTC determines not to continue to act as securities depository for the Bonds or the City determines not to continue the book-entry system for recording ownership interests in the Bonds with DTC, the City will discontinue the book-entry system with DTC. If the City does not select another qualified securities depository to replace DTC (or a successor depository) in order to continue a book-entry system, the City will register and deliver replacement bonds in the form of fully registered certificates, in authorized denominations of \$5,000 or integral multiples of \$5,000, in accordance with instructions from Cede & Co., as nominee for DTC. In the event that the City identifies a qualified securities depository to replace DTC, the City will register and deliver replacement bonds, fully registered in the name of such depository, or its nominee, in the denominations as set forth above, as reduced from time to time prior to maturity in connection with redemptions or retirements by call or payment, and in such event, such depository will then maintain the book-entry system for recording ownership interests in the Bonds.

Ownership interest in the Bonds may be purchased by or through Participants. Such Participants and the persons for whom they acquire interests in the Bonds as nominees will not receive certificated Bonds, but each such Participant will receive a credit balance in the records of DTC in the amount of such Participant’s interest in the Bonds, which will be confirmed in accordance with DTC’s standard procedures. Each such person for which a Participant has an interest in the Bonds, as nominee, may desire to make arrangements with such Participant to have all notices of redemption or other communications of the City to DTC, which may affect such person, forwarded in writing by such Participant and to have notification made of all interest payments.

The City will have no responsibility or obligation to such Participants or the persons for whom they act as nominees with respect to payment to or providing of notice for such Participants or the persons for whom they act as nominees.

As used herein, the term “Beneficial Owner” shall hereinafter be deemed to include the person for whom the Participant acquires an interest in the Bonds.

DTC will receive payments from the City, to be remitted by DTC to the Participants for subsequent disbursement to the Beneficial Owners. The ownership interest of each Beneficial Owner in the Bonds will be recorded on the records of the Participants whose ownership interest will be recorded on a computerized book-entry system kept by DTC.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference shall only relate to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When notices are given, they shall be sent by the City to DTC, and DTC shall forward (or cause to be

forwarded) the notices to the Participants so that the Participants can forward the same to the Beneficial Owners.

Beneficial Owners will receive written confirmations of their purchases from the Participants acting on behalf of the Beneficial Owners detailing the terms of the Bonds acquired. Transfers of ownership interest in the Bonds will be accomplished by book entries made by DTC and the Participants who act on behalf of the Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except as specifically provided herein. Interest and principal will be paid when due by the City to DTC, then paid by DTC to the Participants and thereafter paid by the Participants to the Beneficial Owners.

Section 6. The Bonds shall be in substantially the following form:

(Form of Bond)

UNITED STATES OF AMERICA
STATE OF IOWA **COUNTY OF HARDIN**
CITY OF ELDORA

SEWER REVENUE REFUNDING BOND, SERIES 2020A

No. _____ \$ _____

RATE	MATURITY DATE	BOND DATE	CUSIP
2.00%	June 1, ____	September 2, 2020	28467P ____

The City of Eldora (the “City”), in Hardin County, State of Iowa, for value received, promises to pay on the maturity date of this Bond to

Cede & Co.
New York, New York

or registered assigns, the principal sum of

THOUSAND DOLLARS

in lawful money of the United States of America upon presentation and surrender of this Bond at the office of UMB Bank, n.a., West Des Moines, Iowa (hereinafter referred to as the “Registrar” or the “Paying Agent”) with interest on said sum, until paid, at the rate per annum specified above from the date of this Bond, or from the most recent interest payment date on which interest has been paid, on June 1 and December 1 of each year, commencing December 1, 2020, except as the provisions hereinafter set forth with respect to redemption prior to maturity may be or become applicable hereto. Interest on this Bond is payable to the registered owner appearing on the registration books of the City at the close of business on the fifteenth day of the month next preceding the interest payment date, and shall be paid to the registered owner at the address shown on such registration books. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

This Bond shall not be valid or become obligatory for any purpose until the Certificate of Authentication hereon shall have been signed by the Registrar.

This Bond is one of a series of Sewer Revenue Refunding Bonds, Series 2020A (the “Bonds”) issued by the City to evidence its obligation under a certain Loan Agreement, dated as of September 2, 2020 (the “Loan Agreement”) entered into by the City for the purpose of paying the cost, to that extent, of current refunding the City’s outstanding Sewer Revenue Refunding Bonds, Series 2012, dated December 20, 2012.

The Bonds are issued pursuant to and in strict compliance with the provisions of Chapter 384 of the Code of Iowa, 2019, and all other laws amendatory thereof and supplemental thereto, and in conformity with a resolution of the City Council authorizing and approving the Loan Agreement and providing for the issuance and securing the payment of the Bonds (the “Resolution”), and reference is hereby made to the Resolution and the Loan Agreement for a more complete statement as to the source of payment of the Bonds and the rights of the owners of the Bonds.

The Bonds are not subject to redemption prior to maturity.

The Bonds are not general obligations of the City but, together with any additional obligations as may be hereafter issued and outstanding from time to time ranking on a parity therewith under the conditions set forth in the Resolution, are payable solely and only out of the future Net Revenues (as defined in the Resolution) of the Municipal Sanitary Sewer System, a sufficient portion of which has been ordered set aside and pledged for that purpose. This Bond is not payable in any manner by taxation, and under no circumstances shall the City be in any manner liable by reason of the failure of the said Net Revenues to be sufficient for the payment of this Bond and the interest hereon.

This Bond is fully negotiable but shall be fully registered as to both principal and interest in the name of the owner on the books of the City in the office of the Registrar, after which no transfer shall be valid unless made on said books and then only upon presentation of this Bond to the Registrar, together with either a written instrument of transfer satisfactory to the Registrar or the assignment form hereon completed and duly executed by the registered owner or the duly authorized attorney for such registered owner.

The City, the Registrar and the Paying Agent may deem and treat the registered owner hereof as the absolute owner for the purpose of receiving payment of or on account of principal hereof, premium, if any, and interest due hereon and for all other purposes, and the City, the Registrar and the Paying Agent shall not be affected by any notice to the contrary.

And It Is Hereby Certified, Recited and Declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds have existed, have happened and have been performed in due time, form and manner, as required by law, and that the issuance of the Bonds does not exceed or violate any constitutional or statutory limitation or provision.

IN TESTIMONY WHEREOF, the City of Eldora, Iowa, by its City Council, has caused this Bond to be executed with the duly authorized facsimile signature of its Mayor and attested with the duly authorized facsimile signature of the City Clerk, all as of September 2, 2020.

CITY OF ELDORA, IOWA

By _____
David W. Dunn, Mayor

Attest:

Chandra Kyte, City Clerk

Registration Date: (Registration Date)

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

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

UMB BANK, N.A.
West Des Moines, Iowa
Registrar

Authorized Officer

STATEMENT OF INSURANCE

Build America Mutual Assurance Company ("BAM"), New York, New York, has delivered its municipal bond insurance policy (the "Policy") with respect to the scheduled payments due of principal of and interest on this Bond to UMB Bank, n.a., West Des Moines, Iowa or its successor, as paying agent for the Bonds (the "Paying Agent"). Said Policy is on file and available for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from BAM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of these Bonds, the owner acknowledges and consents (i) to the subrogation and all other rights of BAM as more fully set forth in the Policy and (ii) that upon the occurrence and continuance of a default or an event of default under the Resolution or this Bond, BAM shall be deemed to be the sole owner of the Bonds for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the owners of the Bonds or the trustee, paying agent, registrar or similar agent for the benefit of such owners under the Resolution, at law or in equity.

STATE OF IOWA
COUNTY OF HARDIN
CITY OF ELDORA

SS: CITY TREASURER'S CERTIFICATE

The original issuance of the Bonds, of which this Bond is a part, was duly and properly recorded in my office as of September 2, 2020.

(Facsimile Signature)

City Treasurer, Eldora, Iowa

ABBREVIATIONS

The following abbreviations, when used in this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	-	as tenants in common	UTMA	_____	(Custodian)
TEN ENT	-	as tenants by the entireties	As Custodian for	_____	(Minor)
TEN	-	as joint tenants with right of survivorship and not as tenants in common	under Uniform Transfers to Minors Act	_____	(State)

Additional abbreviations may also be used though not in the list above.

ASSIGNMENT

For valuable consideration, receipt of which is hereby acknowledged, the undersigned assigns this Bond to

(Please print or type name and address of Assignee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

and does hereby irrevocably appoint _____, Attorney, to transfer this Bond on the books kept for registration thereof with full power of substitution.

Dated: _____

Signature guaranteed:

Signature(s) must be guaranteed by an eligible guarantor institution which is a member of a recognized signature guarantee program.

NOTICE: The signature to this Assignment must correspond with the name of the registered owner as it appears on this Bond in every particular, without alteration or enlargement or any change whatever.

Section 7. The Bonds shall be executed as herein provided as soon after the adoption of this resolution as may be possible and thereupon they shall be delivered to the Registrar for registration, authentication and delivery to or on behalf of the Underwriter, upon receipt of the loan proceeds (the "Loan Proceeds"), and all action heretofore taken in connection with the Loan Agreement is hereby ratified and confirmed in all respects.

The Loan Proceeds along with other monies shall be deposited as set forth in the City's closing certificate delivered in connection with the issuance of the Bonds or as otherwise approved by bond counsel.

The City shall keep a detailed and segregated accounting of the expenditure of, and investment earnings on, the Loan Proceeds to ensure compliance with the requirements of the Internal Revenue Code, as hereinafter defined.

Section 8. So long as any of the Bonds or Parity Obligations are outstanding, the City shall continue to maintain the Utility in good condition, and the Utility shall continue to be operated in an efficient manner and at a reasonable cost as a revenue producing undertaking. The City shall establish, impose, adjust and provide for the collection of rates to be charged to customers of the Utility, including the City, to produce gross revenues (hereinafter sometimes referred to as the "Gross Revenues") at least sufficient to pay the expenses of operation and maintenance of the Utility, which shall include salaries, wages, cost of maintenance and operation, materials, supplies, insurance, and all other items normally included under recognized accounting practices (but does not include allowances for depreciation in the valuation of physical property) (which such expenses are hereinafter sometimes referred to as the "Operating Expenses") and to leave a balance of net revenues (herein referred to as the "Net Revenues") equal to at least 110 percent (110%) of the amount of annual payments of principal of and interest on all of the Bonds and any Parity Obligations outstanding from time to time, as the same become due, and to maintain a reasonable reserve for the payment of such principal and interest, as hereinafter provided.

Section 9. From and after the issuance of the Bonds, and as long as the Bonds or any Parity Obligations are outstanding, the Gross Revenues of the Utility shall be set aside into a separate and special fund which is hereby established, to be known and hereinafter referred to as the "Sewer Revenue Fund." The Sewer Revenue Fund shall be used in maintaining and operating the Utility, and after payment of the Operating Expenses shall, to the extent hereinafter provided, be used to pay the principal of and interest on the Bonds and any Parity Obligations, and to create and maintain the several separate funds hereinafter established and in the following priority:

A. Operation and Maintenance Fund. There is hereby created and there shall be maintained, an account known as the Operation and Maintenance Fund. From and after the issuance of the Bonds and throughout the time any of the Bonds or Parity Obligations are outstanding there shall continue to be deposited into the Operation and Maintenance Fund each month an amount sufficient to meet the current Operating Expenses of the month plus an amount equal to 1/12th of Operating Expenses payable on an annual basis such as insurance. After the monthly deposit, further deposits may be made to the Operation and Maintenance Fund from the

Revenue Fund to the extent necessary to pay current Operating Expenses accrued and payable to the extent that funds are not available in the Surplus Fund.

B. Sinking Fund. There is hereby created, and there shall be maintained, an account to be known as the “Sanitary Sewer Revenue Sinking Fund” (herein referred to as the “Sinking Fund”), into which there shall be set aside from the future Net Revenues of the Utility such portion thereof as will be sufficient to pay the interest upon and principal of the Bonds as the same become due, and it is hereby determined that the minimum amount to be so set aside into the Sinking Fund from the Net Revenues during each month of each year shall be not less than as follows:

On October 1, 2020 and November 1, 2020, an amount equal to 1/2 of the installment of interest coming due on December 1, 2020, and thereafter, commencing on December 1, 2020 and continuing to final maturity, an amount equal to 1/6th of the installment of interest coming due on the next succeeding interest payment date on the then outstanding Bonds. In addition, commencing on October 1, 2020 and continuing to and including May 1, 2021, an amount equal to 1/8th of the installment of principal coming due on June 1, 2021, and thereafter, commencing on June 1, 2021 and continuing to final maturity, an amount equal to 1/12th of the installment of principal coming due on such Bonds on the next succeeding principal payment date until the full amount of such installment is on deposit in the Sinking Fund;

provided, however, that no further payments need be made into the Sinking Fund when and so long as the amount therein is sufficient to retire the Bonds and any Parity Obligations then outstanding which are payable from the Sinking Fund and to pay all interest to become due thereon prior to such retirement, or if provision for such payment has been made.

Whenever Parity Obligations are issued under the conditions and restrictions set forth in this resolution, provisions shall be made for additional payments to be made into the Sinking Fund for the purpose of paying the interest on and principal of such Parity Obligations.

The Sinking Fund and that portion of the Net Revenues contained therein shall be used solely and only and are hereby pledged for the purpose of paying the interest on and the principal of the Bonds and any Parity Obligations.

If at any time there be a failure to pay into the Sinking Fund the full amount above stipulated, then an amount equivalent to the deficiency shall be paid into the Sinking Fund from the Net Revenues of the Utility as soon as available, and the same shall be in addition to the amount otherwise required to be so set apart and paid into the Sinking Fund.

C. Reserve Fund. There is hereby created, and shall be maintained, a special fund to be known and designated as the “Reserve Fund” or “Debt Service Reserve Fund” and the minimum amount required to remain on deposit in the Reserve Fund shall be and remain at \$276,000 (the “Required Reserve Fund Balance”). The Required Reserve Fund Balance allocable to the Bonds is equal, as of the date of calculation, to the least of (i) ten percent of the principal amount of the Bonds, (ii) the maximum amount of principal and interest payable on the Bonds in the current or any future fiscal year, or (iii) 125% of the average debt service on the

Bonds. Unless otherwise satisfied in adherence to the terms of the next succeeding paragraph, whenever the sum on deposit in the Reserve Fund has been reduced to less than the Required Reserve Fund Balance by the expenditure of all or a portion of such funds in order to prevent or remedy a deficiency in the Sinking Fund, there shall be deposited into the Reserve Fund in each month the remaining Net Revenues after first making the required deposits into the Sinking Fund. Such payments shall continue until such time as the sum on deposit in the Reserve Fund shall be at least equal to the Required Reserve Fund Balance.

All money credited to the Reserve Fund shall be used and is hereby pledged for the payment of the principal of and interest on the Bonds, and Parity Obligations which are secured by the Reserve Fund whenever for any reason the funds on deposit in the Sinking Fund are insufficient to pay such principal and interest when due. If and to whatever extent Parity Obligations shall be issued under the conditions set forth in this resolution, provision shall be made to create and maintain a reasonable reserve therefor, if so required by the purchaser of such Parity Obligations at the time of their issuance.

D. Improvement Fund. There is hereby created, and shall be maintained, a special fund to be known and designated as the "Improvement Fund," into which there shall be set apart and paid from legally available funds of the Utility at the time of the delivery of the Bonds the sum of \$175,000 (the "Required Improvement Fund Balance"). If and to whatever extent it may become necessary to use such funds for any of the purposes hereinafter specified, there shall be set apart and paid into the Improvement Fund from the balance of the Net Revenues remaining, after first making the required payments into the Sinking Fund and the required payments, if any, into the Reserve Fund, and after the Reserve Fund contains the Required Reserve Fund Balance (as defined herein) the sum of \$2,000 on the first day of each month of each year until such time as the Required Improvement Fund Balance has been restored. All money credited to the Improvement Fund shall be used and is hereby pledged solely and only for the following purposes and with the following priorities:

First, if for any reason there exists a deficiency in the Sinking Fund and provided sufficient amounts are not available in the Revenue Fund to pay such deficiency, there shall be paid into the Sinking Fund an amount equal to the deficiency from the amounts on deposit in the Improvement Fund.

Second, said money shall be transferred and credited to the Reserve Fund whenever any deficiency may exist in the Reserve Fund.

Third, not exceeding one half (1/2) of the amount required to be paid into the Improvement Fund each month may be pledged, set aside, used and applied to the payment of principal of and interest on subordinate revenue bonds issued to pay the cost of making necessary improvements and extensions to the Utility, provided there has first been procured and filed with the Utility the written opinion of a reputable consulting engineer employed by the Utility that the proposed improvements and extensions are required to insure the continued efficient and successful operation of the Utility.

Fourth, to pay for the cost of capital improvements and extensions to the Utility provided, however, that prior to the expenditure no deficiency exists in the amounts required to be paid into the Sinking Fund and the Reserve Fund, and there has first been procured and placed on file with the Utility the written opinion of a reputable consulting engineer employed by the Utility or the City that the proposed capital improvements and extensions are required to insure the continued efficient and successful operation of the Utility.

E. Surplus Fund. There is hereby created, and shall be maintained, a special fund to be known and designated as the Surplus Fund into which there shall be set apart and paid all of the Net Revenues remaining after first making the required payments into the Operation and Maintenance Fund, the Sinking Fund, the Reserve Fund and the Improvement Fund, and after the Reserve Fund contains the Required Reserve Fund Balance and the Improvement Fund contains the Required Improvement Fund Balance. All money credited to the Surplus Fund shall be transferred and credited to the Sinking Fund whenever necessary to prevent or remedy a default in the payment of the principal of or interest on the Bonds and any Parity Obligations or shall be transferred and credited to the Reserve Fund whenever any deficiency may exist in the Reserve Fund, or shall be transferred and credited to the Improvement Fund whenever any deficiency may exist in the Improvement Fund.

As long as the Sinking Fund and the Reserve Fund have the full amounts required to be deposited therein by this resolution and the payments into the Improvement Fund are current, any balance in the Surplus Fund may be made available to the City as the City Council, or such other duly constituted body as may then be charged with the operation of the Utility, may from time to time direct.

Section 10. All of such payments required to be made into any fund created or to be maintained under the terms of this resolution shall be made in equal monthly installments as hereinbefore provided on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday, then such payments shall be made on the next succeeding secular day, and all money held in any fund created or to be maintained under the terms of this resolution shall be deposited in lawful depositories of the City or invested in accordance with Chapters 12B and 12C of the Code of Iowa and continuously held and secured as provided by the laws of the State of Iowa relating to the depositing, securing, holding and investing of public funds. All interest received by the City as a result of investments under this section shall be deposited in or transferred to the Sinking Fund and used solely and only for the purposes specified herein for such fund.

Section 11. The City hereby covenants and agrees with the owner or owners of the Bonds and any Parity Obligations, or any of them, that may be outstanding from time to time, that it will faithfully and punctually perform all duties with reference to the Utility required and provided by the Constitution and laws of the State of Iowa, that it will segregate the Gross Revenues of the Utility and make application thereof in accordance with the provisions of this resolution and that it will not sell, lease or in any manner dispose of the Utility or any part thereof, including any and all extensions and additions that may be made thereto, until all of the Bonds and any Parity Obligations have been paid in full, both principal and interest, or unless and until provision shall have been made for the payment thereof in full, both principal and

interest; provided, however, that the City may dispose of any property which in the judgment of the City Council, or the duly constituted body as may then be charged with the operation of the Utility, is no longer useful in the operation of the Utility nor essential to the continued operation thereof and when the sale thereof will not operate to reduce the revenues to be derived from the operation of the Utility.

Section 12. Upon a breach or default of a term of the Bonds or any Parity Obligations and this resolution, a proceeding may be brought in law or in equity by suit, action or mandamus to enforce and compel performance of the duties required under the terms of this resolution and Division V of Chapter 384 of the Code of Iowa or an action may be brought to obtain the appointment of a receiver to take possession of and operate the Utility and to perform the duties required by this resolution and Division V of Chapter 384 of the Code of Iowa.

Section 13. The Bonds or any Parity Obligations shall not be entitled to priority or preference one over the other in the application of the Net Revenues of the Utility, regardless of the time or times of the issuance thereof, it being the intention that there shall be no priority among the Bonds or any Parity Obligations, regardless of the fact that they may have been actually issued and delivered at different times. The City hereby covenants and agrees that so long as any of the Bonds or any Parity Obligations are outstanding and unpaid, no other bonds or obligations payable from the Net Revenues of the Utility will be issued except upon the basis of such bonds or obligations being subject to the priority and security for payment of the Bonds or any Parity Obligations then outstanding; provided, however, that the City reserves the right and privilege of issuing Parity Obligations in order to pay the cost of improvements and extensions to the Utility or for refunding any bonds or obligations payable from the Net Revenues of the Utility, but only if the officially reported Net Revenues of the Utility for the last preceding fiscal year prior to the issuance of such Parity Obligations (with adjustments as hereinafter provided) were equal to at least 120% of the maximum amount of principal and interest that will become due in any subsequent year during the life of the Bonds and any Parity Obligations then outstanding and the Parity Obligations then proposed to be issued. For purposes of this Section, "preceding Fiscal Year" shall be the most recently completed Fiscal Year for which audited or unaudited financial statements are available, but in no event a Fiscal Year which ended more than eighteen months prior to the date of issuance of Parity Obligations.

The amount of Gross Revenues of the Utility may be adjusted for the purpose of the foregoing computations by an independent auditor, an independent consulting engineer or a financial consultant, not a regular employee of the City, so as to reflect any revision in the schedule of rates and charges being imposed at the time of the issuance of any such Parity Obligations.

Obligations issued to refund the Bonds or any Parity Obligations shall not be subject to the foregoing restrictions, provided the Bonds or Parity Obligations being refunded mature, or shall be redeemed, within three (3) months of the date of such refunding and no other funds are available to pay such maturing Bonds or Parity Obligations, or the issuance of the refunding obligations will not cause an increase in the annual debt service requirements during the life of any of the Bonds or any Parity Obligations then outstanding which are not being refunded, but otherwise any Parity Obligations shall only be issued subject to the restrictions of this resolution.

The City reserves the right to issue additional obligations secured by and payable from the Net Revenues of the Utility, provided that such additional obligations shall be in all ways subject and subordinate to the rights vested in the Bonds and any Parity Obligations as may from time to time be and remain outstanding.

Section 14. The City agrees that so long as the Bonds or any Parity Obligations remain outstanding, it will maintain insurance for the benefit of the owners of the Bonds and any Parity Obligations on the insurable portions of the Utility of a kind and in an amount which usually would be carried by private companies or municipalities engaged in a similar type of business. The City will keep proper books of record and account, separate from all other records and accounts, showing the complete and correct entries of all transactions relating to the Utility, and the owners of the Bonds or any Parity Obligations shall have the right at all reasonable times to inspect the Utility and all records, accounts and data relating thereto.

Section 15. The provisions of this resolution shall constitute a contract between the City and the owners of the Bonds, and after the issuance of the Bonds, no change, variation or alteration of any kind of the provisions of this resolution shall be made which will adversely affect the owners of the Bonds until all of the Bonds and the interest thereon shall have been paid in full, except as hereinafter provided.

The owners of a majority in principal amount of the Bonds and Parity Obligations at any time outstanding (not including in any case any obligations which may be then held or owned by or for the account of the City, but including such obligations as may be issued for the purpose of refunding any of the Bonds or any Parity Obligations if such obligations shall not then be owned by the City) shall have the right from time to time to consent to and approve the adoption by the City Council, or such other duly constituted body as may be then charged with the operation of the Utility, of a resolution or resolutions modifying or amending any of the terms or provisions contained in this resolution; provided, however, that this resolution may not be so modified or amended in such manner as to:

- a. make any change in the maturity or redemption terms of the Bonds or any Parity Obligations;
- b. make any change in the rate of interest borne by the Bonds or any Parity Obligations;
- c. reduce the amount of the principal payable on any Bonds or Parity Obligations;
- d. modify the terms of payment of principal of or interest on the Bonds or any Parity Obligations, or any of them, or impose any conditions with respect to such payment;
- e. affect the rights of the owners of less than all of the Bonds and any Parity Obligations then outstanding; or

f. reduce the percentage of the principal amount of the Bonds and any Parity Obligations, the consent of the owners of which shall be required to effect a further modification.

Whenever the City shall propose to amend or modify this resolution under the provisions of this section, it shall cause notice of the proposed amendment to be sent by regular or electronic mail to each of the owners of the Bonds and any Parity Obligations at the addresses appearing on the registration books of the City. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory resolution is on file in the office of the City Clerk.

If the owners of at least a majority in aggregate principal amount of the Bonds and any Parity Obligations outstanding at the time of the adoption of such amendatory resolution shall have consented to and approved the adoption thereof as herein provided, no owner of any Bond or Parity Obligation shall have any right or interest to object to the adoption of such amendatory resolution or to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the City from taking any action pursuant to the provisions thereof.

Any consent given by the owners of a Bond or Parity Obligation pursuant to the provisions of this section shall be irrevocable for a period of six (6) months from the date of such consent and shall be conclusive and binding upon all future owners of the same Bond or Parity Obligation during such period. Such consent may be revoked at any time after six (6) months from the date of such consent by the owner who gave such consent or by a successor in title, but such revocation shall not be effective if the owners of a majority in aggregate principal amount of the Bonds and Parity Obligations outstanding as in this section defined shall have, prior to the attempted revocation, consented to and approved the amendatory resolution referred to in such revocation.

The fact and date of the execution of any instrument under the provisions of this section may be proved by the certificate of any officer in any jurisdiction who by the laws thereof is authorized to take acknowledgments of deeds within such jurisdiction, that the persons signing such instrument acknowledged before him the execution thereof, or may be proved by an affidavit of a witness to such execution sworn to before such officer.

Section 16. It is the intention of the City that interest on the Bonds be and remain excluded from gross income for federal income tax purposes pursuant to the appropriate provisions of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations in effect with respect thereto (all of the foregoing herein referred to as the "Internal Revenue Code"). In furtherance thereof the City covenants to comply with the provisions of the Internal Revenue Code as they may from time to time be in effect or amended and further covenants to comply with applicable future laws, regulations, published rulings and court decisions as may be necessary to insure that the interest on the Bonds will remain excluded from gross income for federal income tax purposes. Any and all of the officers of the City are hereby authorized and directed to take any and all actions as may be necessary to comply with the covenants herein contained.

The City hereby designates the Bonds as “Qualified Tax Exempt Obligations” as that term is used in Section 265(b)(3)(B) of the Internal Revenue Code.

Section 17. The Securities and Exchange Commission (the “SEC”) has promulgated certain amendments to Rule 15c2-12 under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the “Rule”) that make it unlawful for an underwriter to participate in the primary offering of municipal securities in a principal amount of \$1,000,000 or more unless, before submitting a bid or entering into a purchase contract for the bonds, an underwriter has reasonably determined that the issuer or an obligated person has undertaken in writing for the benefit of the bondholders to provide certain disclosure information to prescribed information repositories on a continuing basis or unless and to the extent the offering is exempt from the requirements of the Rule.

On the date of issuance and delivery of the Bonds, the City will execute and deliver a Continuing Disclosure Certificate pursuant to which the City will undertake to comply with the Rule. The City covenants and agrees that it will comply with and carry out the provisions of the Continuing Disclosure Certificate. Any and all of the officers of the City are hereby authorized and directed to take any and all actions as may be necessary to comply with the Rule and the Continuing Disclosure Certificate.

Section 18. Provisions Related to Bond Insurance. The following provisions shall govern, notwithstanding anything to the contrary set forth in this resolution. For purposes of this resolution, the following definitions in paragraph 15 shall apply.

1) Notice and Other Information to be given to BAM. The Issuer will provide BAM with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Agreement and (ii) to the holders of Insured Obligations or the Trustee under the Security Documents.

The notice address of BAM is: Build America Mutual Assurance Company, 200 Liberty Street, 27th Floor, New York, NY 10281, Attention: Surveillance, Re: Policy No._____, Telephone: (212) 235-2500, Telecopier: (212) 235-1542, Email: notices@buildamerica.com. In each case in which notice or other communication refers to an event of default or a claim on the Policy, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel at the same address and at claims@buildamerica.com or at Telecopier: (212) 235-5214 and shall be marked to indicate “URGENT MATERIAL ENCLOSED.”

2) Defeasance. The investments in the defeasance escrow relating to Insured Obligations shall be limited to non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, or as otherwise maybe authorized under State law and approved by BAM.

At least (three) 3 Business Days prior to any defeasance with respect to the Insured Obligations, the Issuer shall deliver to BAM draft copies of an escrow agreement, an opinion of bond counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Insured Obligations, a verification report (a “Verification Report”) prepared by

a nationally recognized independent financial analyst or firm of certified public accountants regarding the sufficiency of the escrow fund. Such opinion and Verification Report shall be addressed to BAM and shall be in form and substance satisfactory to BAM. In addition, the escrow agreement shall provide that:

a) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a Verification Report, an opinion of bond counsel that such substitution will not adversely affect the exclusion (if interest on the Insured Obligations is excludable) from gross income of the holders of the Insured Obligations of the interest on the Insured Obligations for federal income tax purposes and the prior written consent of BAM, which consent will not be unreasonably withheld.

b) The Issuer will not exercise any prior optional redemption of Insured Obligations secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding bonds, and (ii) as a condition to any such redemption there shall be provided to BAM a Verification Report as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following any such redemption.

c) The Issuer shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of BAM.

3) Trustee and Paying Agent.

a) BAM shall receive prior written notice of any name change of the trustee (the "Trustee") or, if applicable, the paying agent (the "Paying Agent") for the Insured Obligations or the resignation or removal of the Trustee or, if applicable, the Paying Agent. Any Trustee must be (A) a national banking association that is supervised by the Office of the Comptroller of the Currency and has at least \$250 million of assets, (B) a state-chartered commercial bank that is a member of the Federal Reserve System and has at least \$1 billion of assets, or (C) otherwise approved by BAM in writing.

b) No removal, resignation or termination of the Trustee or, if applicable, the Paying Agent shall take effect until a successor, meeting the requirements above or acceptable to BAM, shall be qualified and appointed.

4) Amendments, Supplements and Consents. BAM's prior written consent is required for all amendments and supplements to the Security Documents, with the exceptions noted below. The Issuer shall send copies of any such amendments or supplements to BAM and the rating agencies which have assigned a rating to the Insured Obligations.

a) *Consent of BAM.* Any amendments or supplements to the Security Documents shall require the prior written consent of BAM with the exception of amendments or supplements:

- i. To cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in the transaction documents or in any supplement thereto, or
 - ii. To grant or confer upon the holders of the Insured Obligations any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the holders of the Insured Obligations, or
 - iii. To add to the conditions, limitations and restrictions on the issuance of bonds or other obligations under the provisions of the Security Documents other conditions, limitations and restrictions thereafter to be observed, or
 - iv. To add to the covenants and agreements of the Issuer in the Security Documents other covenants and agreements thereafter to be observed by the Issuer or to surrender any right or power therein reserved to or conferred upon the Issuer.
 - v. To issue additional parity debt in accordance with the requirements set forth in the Security Documents (unless otherwise specified herein).
- b) *Consent of BAM in Addition to Bondholder Consent.* Any amendment, supplement, modification to, or waiver of, any of the Security Documents that requires the consent of holders of the Insured Obligations or adversely affects the rights or interests of BAM shall be subject to the prior written consent of BAM.
- c) *Insolvency.* Any reorganization or liquidation plan with respect to the Issuer must be acceptable to BAM. The Trustee and each owner of the Insured Obligations hereby appoint BAM as their agent and attorney-in-fact with respect to the Insured Obligations and agree that BAM may at any time during the continuation of any proceeding by or against the Issuer under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an “Insolvency Proceeding”) direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a “Claim”), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedes or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Trustee and each owner of the Insured Obligations delegate and assign to BAM, to the fullest extent permitted by law, the rights of the Trustee and each owner of the Insured Obligations with respect to the Insured Obligations in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.
- d) *Control by BAM Upon Default.* Anything in the Security Documents to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, BAM shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Insured Obligations or the Trustee or Paying Agent for the benefit of the holders of the Insured Obligations under any Security Document. No default or event of default may be waived without BAM’s written consent.

e) *BAM as Owner.* Upon the occurrence and continuance of a default or an event of default, BAM shall be deemed to be the sole owner of the Insured Obligations for all purposes under the Security Documents, including, without limitations, for purposes of exercising remedies and approving amendments.

f) *Consent of BAM for acceleration.* BAM's prior written consent is required as a condition precedent to and in all instances of acceleration.

g) *Grace Period for Payment Defaults.* No grace period shall be permitted for payment defaults on the Insured Obligations. No grace period for a covenant default shall exceed 30 days without the prior written consent of BAM.

h) *Special Provisions for Insurer Default.* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in paragraphs 4(a)-(e) above to the contrary, (1) if at any time prior to or following an Insurer Default, BAM has made payment under the Policy, to the extent of such payment BAM shall be treated like any other holder of the Insured Obligations for all purposes, including giving of consents, and (2) if BAM has not made any payment under the Policy, BAM shall have no further consent rights until the particular Insurer Default is no longer continuing or BAM makes a payment under the Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph, "Insurer Default" means: (A) BAM has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) BAM shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of BAM (including without limitation under the New York Insurance Law).

5) Loan/Lease/Financing Agreement.

a) The security for the Insured Obligations shall include a pledge and assignment of any agreement with any underlying obligor that is a source of payment for the Insured Obligations (a "Financing Agreement") and a default under any Financing Agreement shall constitute an Event of Default under the Security Documents. In accordance with the foregoing, any such Financing Agreement is hereby pledged and assigned to the Trustee for the benefit of the holders of the Insured Obligations.

b) Any payments by the Obligor under the Financing Agreement that will be applied to the payment of debt service on the Insured Obligations shall be made directly to the Trustee at least fifteen (15) days prior to each debt service payment date for the Insured Obligations.

6) BAM As Third Party Beneficiary. BAM is recognized as and shall be deemed to be a third party beneficiary of the Security Documents and may enforce the provisions of the Security Documents as if it were a party thereto.

7) Payment Procedure Under the Policy.

In the event that principal and/or interest due on the Insured Obligations shall be paid by BAM pursuant to the Policy, the Insured Obligations shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the Issuer to the registered owners shall continue to exist and shall run to the benefit of BAM, and BAM shall be subrogated to the rights of such registered owners.

In the event that on the second (2nd) business day prior to any payment date on the Insured Obligations, the Paying Agent or Trustee has not received sufficient moneys to pay all principal of and interest on the Insured Obligations due on such payment date, the Paying Agent or Trustee shall immediately notify BAM or its designee on the same business day by telephone or electronic mail, of the amount of the deficiency. If any deficiency is made up in whole or in part prior to or on the payment date, the Paying Agent or Trustee shall so notify BAM or its designee.

In addition, if the Paying Agent or Trustee has notice that any holder of the Insured Obligations has been required to disgorge payments of principal of or interest on the Insured Obligations pursuant to a final, non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such holder within the meaning of any applicable bankruptcy law, then the Paying Agent or Trustee shall notify BAM or its designee of such fact by telephone or electronic mail, or by overnight or other delivery service as to which a delivery receipt is signed by a person authorized to accept delivery on behalf of BAM.

The Paying Agent or Trustee shall irrevocably be designated, appointed, directed and authorized to act as attorney-in-fact for holders of the Insured Obligations as follows:

a) If there is a deficiency in amounts required to pay interest and/or principal on the Insured Obligations, the Paying Agent or Trustee shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holders of the Insured Obligations in any legal proceeding related to the payment and assignment to BAM of the claims for interest on the Insured Obligations, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment from BAM with respect to the claims for interest so assigned, (iii) segregate all such payments in a separate account (the "BAM Policy Payment Account") to only be used to make scheduled payments of principal of and interest on the Insured Obligation, and (iv) disburse the same to such respective holders; and

b) If there is a deficiency in amounts required to pay principal of the Insured Obligations, the Paying Agent or Trustee shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holder of the Insured Obligations in any legal proceeding related to the payment of such

principal and an assignment to BAM of the Insured Obligations surrendered to BAM, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment therefore from BAM, (iii) segregate all such payments in the BAM Policy Payment Account to only be used to make scheduled payments of principal of and interest on the Insured Obligation, and (iv) disburse the same to such holders.

The Trustee shall designate any portion of payment of principal on Insured Obligations paid by BAM, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Insured Obligations registered to the then current holder, whether DTC or its nominee or otherwise, and shall issue a replacement Insured Obligation to BAM, registered in the name directed by BAM, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Trustee's failure to so designate any payment or issue any replacement Insured Obligation shall have no effect on the amount of principal or interest payable by the Issuer on any Insured Obligation or the subrogation or assignment rights of BAM.

Payments with respect to claims for interest on and principal of Insured Obligations disbursed by the Paying Agent or Trustee from proceeds of the Policy shall not be considered to discharge the obligation of the Issuer with respect to such Insured Obligations, and BAM shall become the owner of such unpaid Insured Obligations and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise. The Security Documents shall not be discharged or terminated unless all amounts due or to become due to BAM have been paid in full or duly provided for.

Irrespective of whether any such assignment is executed and delivered, the Issuer, and the Paying Agent and Trustee agree for the benefit of BAM that:

a) They recognize that to the extent BAM makes payments directly or indirectly (e.g., by paying through the Paying Agent or Trustee), on account of principal of or interest on the Insured Obligations, BAM will be subrogated to the rights of such holders to receive the amount of such principal and interest from the Issuer, with interest thereon, as provided and solely from the sources stated in the Security Documents and the Insured Obligations; and

b) They will accordingly pay to BAM the amount of such principal and interest, with interest thereon as provided in the transaction documents and the Insured Obligations, but only from the sources and in the manner provided therein for the payment of principal of and interest on the Insured Obligations to holders, and will otherwise treat BAM as the owner of such rights to the amount of such principal and interest.

8) Additional Payments. The Issuer agrees unconditionally that it will pay or reimburse BAM on demand any and all reasonable charges, fees, costs, losses, liabilities and expenses that BAM may pay or incur, including, but not limited to, fees and expenses of BAM's agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Security Documents ("Administrative Costs"). For purposes of the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of

employees of BAM spent in connection with the actions described in the preceding sentence. The Issuer agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semi-annually, from the date that payment is first due to BAM until the date BAM is paid in full.

Notwithstanding anything herein to the contrary, the Issuer agrees to pay to BAM (i) a sum equal to the total of all amounts paid by BAM under the Policy (“BAM Policy Payment”); and (ii) interest on such BAM Policy Payments from the date paid by BAM until payment thereof in full by the Issuer, payable to BAM at the Late Payment Rate per annum (collectively, “BAM Reimbursement Amounts”) compounded semi-annually. Notwithstanding anything to the contrary, including without limitation the post default application of revenue provisions, BAM Reimbursement Amounts shall be, and the Issuer hereby covenants and agrees that the BAM Reimbursement Amounts are, payable from and secured by a lien on and pledge of the same revenues and other collateral pledged to the Insured Obligations on a parity with debt service due on the Insured Obligations.

9) Debt Service Reserve Fund. The prior written consent of BAM shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Debt Service Reserve Fund, if any. Amounts on deposit in the Debt Service Reserve Fund shall be applied solely to the payment of debt service due on the Insured Obligations.

10) Exercise of Rights by BAM. The rights granted to BAM under the Security Documents to request, consent to or direct any action are rights granted to BAM in consideration of its issuance of the Policy. Any exercise by BAM of such rights is merely an exercise of the BAM’s contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the holders of the Insured Obligations and such action does not evidence any position of BAM, affirmative or negative, as to whether the consent of the holders of the Insured Obligations or any other person is required in addition to the consent of BAM.

11) BAM shall be entitled to pay principal or interest on the Insured Obligations that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Policy) and any amounts due on the Insured Obligations as a result of acceleration of the maturity thereof in accordance with the Security Documents, whether or not BAM has received a claim upon the Policy.

12) So long as the Insured Obligations are outstanding or any amounts are due and payable to BAM, the Issuer shall not sell, lease, transfer, encumber or otherwise dispose of the Issuer’s Municipal Waterworks Utility System or any material portion thereof, except upon obtaining the prior written consent of BAM.

13) No contract shall be entered into or any action taken by which the rights of BAM or security for or source of payment of the Insured Obligations may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of BAM.

14) If an event of default occurs under any agreement pursuant to which any Obligation of the Issuer has been incurred or issued and that permits the holder of such Obligation or trustee to accelerate the Obligation or otherwise exercise rights or remedies that are adverse to the

interest of the holders of the Insured Obligations or BAM, as BAM may determine in its sole discretion, then an event of default shall be deemed to have occurred under this resolution and the related Security Documents for which BAM or the Trustee, at the direction of BAM, shall be entitled to exercise all available remedies under the Security Documents, at law and in equity. For purposes of the foregoing "Obligation" shall mean any bonds, loans, certificates, installment or lease payments or similar obligations that are payable and/or secured on a parity or subordinate basis to the Insured Obligations.

15) Definitions.

"BAM" shall mean Build America Mutual Assurance Company, or any successor thereto.

"Insured Obligations" shall mean the City of Eldora, Iowa Sewer Revenue Refunding Bonds, Series 2020A.

"Issuer" shall mean the City of Eldora, Iowa.

"Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in The City of New York, New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 3%, and (ii) the then applicable highest rate of interest on the Insured Obligations and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A., ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as BAM, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to BAM shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

"Policy" shall mean the Municipal Bond Insurance Policy issued by BAM that guarantees the scheduled payment of principal of and interest on the Insured Obligations when due.

"Security Documents" shall mean the resolution, trust agreement, indenture, ordinance, loan agreement, lease agreement, bond, note, certificate and/or any additional or supplemental document executed in connection with the Insured Obligations.

Section 19. If any section, paragraph, clause or provision of this resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

Section 20. The Mayor and City Clerk (or their acting designees) are hereby authorized to execute and deliver any and all agreements, documents and instruments required related to the issuance of the Bonds and to carry out the purposes set forth in this resolution, including, but not limited to, any tax certificates, closing certificates, and purchase agreements.

Section 21. All resolutions and orders or parts thereof in conflict with the provisions of this resolution are, to the extent of such conflict, hereby repealed.

Section 22. This resolution shall be in full force and effect immediately upon its adoption and approval, as provided by law.

Passed and approved August 18, 2020.

David W. Dunn, Mayor

Attest:

Chandra Kyte, City Clerk

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On motion and vote, the meeting adjourned.

David W. Dunn, Mayor

Attest:

Chandra Kyte, City Clerk

STATE OF IOWA
COUNTY OF HARDIN
CITY OF ELDORA

SS:

I, the undersigned, do hereby certify that I have in my possession or have access to the complete corporate records of the City and of its City Council and officers and that I have carefully compared the transcript hereto attached with the aforesaid corporate records and that the transcript hereto attached is a true, correct and complete copy of all the corporate records in relation to the authorization and approval of a certain Loan Agreement and the issuance of \$2,760,000 Sewer Revenue Refunding Bonds, Series 2020A of the City evidencing the City's obligation under the Loan Agreement and that the transcript hereto attached contains a true, correct and complete statement of all the measures adopted and proceedings, acts and things had, done and performed up to the present time with respect thereto.

I further certify that no appeal has been taken to the District Court from the decision of the City Council to enter into the Loan Agreement or to issue the Bonds.

WITNESS MY HAND this 18th day of August, 2020.

Chandra Kyte, City Clerk

STATE OF IOWA
COUNTY OF HARDIN
CITY OF ELDORA

SS:

I, the undersigned, City Clerk of the City of Eldora, do hereby certify that the City did heretofore establish a Municipal Sanitary Sewer System (hereinafter referred to as the "Utility"), that the management and control of the Utility are vested in the City Council of the City, and that no board of trustees exists which has any part of the control and management of such Utility.

I further certify that there is not pending or threatened any question or litigation whatsoever touching the establishment, improvement or operation of such Utility and that there are no bonds or other obligations of any kind now outstanding which are payable from or constitute a lien upon the revenues derived from the operation of such Utility, except for the Bonds currently being issued by the City and the outstanding bonds being refunded by the Bonds.

WITNESS MY HAND this 18th day of August, 2020.

Chandra Kyte, City Clerk