

ORDINANCE NO. 2022 – OR – 007

**AN ORDINANCE AUTHORIZING THE REFUNDING OF CERTAIN
OUTSTANDING WATERWORKS REVENUE BONDS OF THE TOWN;
AUTHORIZING THE ISSUANCE OF THE TOWN OF SELLERSBURG,
INDIANA WATERWORKS REFUNDING REVENUE BONDS OF 2022 TO
PROVIDE FUNDS FOR SUCH REFUNDING AND THE PAYMENT OF
THE COSTS THEREOF; AND ADDRESSING OTHER MATTERS
CONNECTED THEREWITH**

WHEREAS, the Town of Sellersburg, Indiana (the “Town”), has heretofore established, acquired, constructed and financed its municipal waterworks and currently owns and operates such waterworks (the “Waterworks”) pursuant to the provisions of Title 8, Article 1.5 of the Indiana Code, as amended; and

WHEREAS, the Town Council of the Town (the “Town Council”) hereby finds that certain hereinafter described outstanding bonds of the Waterworks should be refunded to obtain a reduction in interest payments and effect a savings to the Town, that the refunding of those outstanding bonds, together with any redemption premiums and accrued interest thereon and including all costs related to the refunding cannot be provided for out of funds of the Waterworks now on hand and the refunding should be accomplished by the issuance of refunding revenue bonds of the Waterworks; and

WHEREAS, the Town has previously issued its Waterworks Revenue Bonds of 2014, dated August 26, 2014, currently outstanding in the aggregate principal amount of \$6,080,000 (the “Refunded Bonds”), pursuant to Ordinance No. 2013-013 (the “2014 Ordinance”), which Refunded Bonds constitute a first charge on the Net Revenues (as hereinafter defined) of the Waterworks; and

WHEREAS, the Refunded Bonds may be redeemed, at the option of the Town, in whole or in part at a redemption price of one hundred percent (100%) of the principal amount to be redeemed, plus accrued interest to the date of redemption; and

WHEREAS, the Town Council has found that it is beneficial to refund all of the outstanding Refunded Bonds pursuant to the provisions of Indiana Code 5-1-5 to enable the Town to obtain a reduction in interest payments and effect a savings to the Town and hereby authorizes the same by issuance of refunding revenue bonds (the “Refunding Bonds”); and

WHEREAS, upon the refunding of the Refunded Bonds, there will be no outstanding bonds payable out of the Net Revenues (as hereinafter defined) of the Waterworks other than the Refunding Bonds; and

WHEREAS, the Refunding Bonds will constitute a first charge against the Net Revenues of the Waterworks and are to be issued subject to the provisions of the Act (as hereinafter defined), and the terms and restrictions of this Ordinance; and

WHEREAS, this Town Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of the Refunding Bonds have been complied with in accordance with the provisions of Indiana Code 8-1.5-2 and Indiana Code 5-1-5, each as in effect on the date of delivery of the Refunding Bonds authorized herein (collectively, the “Act”).

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SELLERSBURG, INDIANA, THAT:

SECTION 1. Authorization of Refunding the Refunded Bonds. The Town, being the owner of and engaged in operating an unencumbered Waterworks supplying the Town, its inhabitants, and the residents adjacent thereto, with water services, now finds it necessary to provide funds for refunding the Refunded Bonds thereby reducing its interest payments and effecting a savings, as will be reported after the sale of the Refunding Bonds issued hereunder by the Town’s municipal advisor, Baker Tilly Municipal Advisors, LLC (the “Municipal Advisor”). Where used in this Ordinance, the term “Town” shall be construed also to include any department, board, commission or officer or officers of the Town or of any Town department, board or commission. The terms “Waterworks”, “waterworks system”, “works”, “system” and similar terms used in this Ordinance shall be construed to mean the Town’s existing waterworks system together with all the real estate, equipment and appurtenances thereto used in connection therewith, and all improvements, extensions and additions thereto, and replacements thereof, now or subsequently constructed or acquired.

SECTION 2. The Refunding Bonds. In accordance with the Act, the Town shall issue, in one or more series, its waterworks refunding revenue bonds designated “Town of Sellersburg, Indiana Waterworks Refunding Revenue Bonds of 2022”, with any such further or different series designation as determined by the Clerk-Treasurer to be necessary or appropriate, in the aggregate principal amount not to exceed Six Million Eight Hundred Thousand Dollars (\$6,800,000) (the “Refunding Bonds”), for the purpose of providing funds to (i) effect a current refunding of the Refunded Bonds for the purpose of achieving interest cost savings, (ii) fund a debt service reserve fund or pay the premium for a debt service reserve surety policy, if necessary, and (iii) pay the costs incurred on account of the issuance and sale of the Refunding Bonds, including any premiums for any municipal bond insurance policies, if any. The principal of, redemption premium, if any, and interest on the Refunding Bonds shall be payable solely out of the Net Revenues deposited into the Sinking Fund, as defined and described herein.

The Refunding Bonds shall be issued in one or more series as fully registered bonds in denominations of: (i) Five Thousand Dollars (\$5,000) or any integral multiple thereof, or (ii) if sold through a private placement, in denominations of One Hundred Thousand Dollars (\$100,000), plus any integral multiple of Five Thousand Dollars (\$5,000) in excess thereof, or the aggregate principal amount of such Refunding Bonds maturing in any year if less than One Hundred Thousand Dollars (\$100,000); in either case not exceeding the aggregate principal amount of the Refunding Bonds maturing in any one year. The Refunding Bonds shall be numbered consecutively from R-1 upward, and shall bear interest at a rate not to exceed five percent (5.0%) per annum (the exact rate or rates to be determined by bidding or through negotiations, as determined by the Clerk-Treasurer). Interest on the Refunding Bonds shall be payable semiannually on January 1 and July 1 of each year (each an “Interest Payment Date”), commencing

not earlier than July 1, 2022. The principal of the Refunding Bonds shall mature semiannually on January 1 and July 1 of each year, or be subject to mandatory sinking fund redemption on January 1 and July 1 of each year, commencing not earlier than July 1, 2022, and ending no later than January 1, 2035, until the principal is fully paid. Interest on the Refunding Bonds shall be calculated according to a 360-day calendar year containing twelve 30-day months. Subject to the terms and conditions herein, the Refunding Bonds shall mature on such dates and amounts as determined by the Clerk-Treasurer prior to the sale of the Refunding Bonds with the advice of the Municipal Advisor.

The Refunding Bonds shall bear an original issue date which shall be the date of delivery and each Refunding Bond shall also bear the date of its authentication. Any Refunding Bond authenticated on or before the fifteenth (15th) day of the month immediately preceding the first Interest Payment Date, shall pay interest from its original date. Any Refunding Bond authenticated thereafter shall pay interest from the Interest Payment Date next preceding the date of authentication of such Refunding Bond to which interest thereon has been paid or duly provided for, unless such Refunding Bond is authenticated after the fifteenth (15th) day of the month immediately preceding an Interest Payment Date and on or before such Interest Payment Date, in which case interest thereon shall be paid from such Interest Payment Date.

The Clerk-Treasurer is authorized to serve as, or the Clerk-Treasurer is authorized to appoint a qualified financial institution to serve as, the Registrar and Paying Agent for the Refunding Bonds (the "Registrar and Paying Agent") as will enable and facilitate the performance of its duties and responsibilities, and are authorized and directed to pay such fees as the Registrar and Paying Agent may reasonably charge for its services in such capacity, with such fees to be paid from the Sinking Fund as described in this Ordinance. The Registrar and Paying Agent is hereby charged with the performance of all of the duties and responsibilities customarily associated with each such position, including without limitation the authentication of the Refunding Bonds.

If wire transfer payment for the Refunding Bonds is not required, the principal of and any redemption premium on the Refunding Bonds shall be payable at the designated corporate trust operations office of the Paying Agent. Interest on the Refunding Bonds shall be paid by check or draft mailed or delivered by the Paying Agent to the registered owner thereof at the address as it appears on the registration books kept by the Registrar as of the fifteenth (15th) day of the month immediately preceding the Interest Payment Date or at such other address as may be provided to the Paying Agent in writing by such registered owner. All payments on the Refunding Bonds shall be made in any coin or currency of the United States of America which, on the dates of such payments, shall be legal tender for the payment of public or private debt.

Each Refunding Bond shall be transferable or exchangeable only on the books of the Town maintained for such purpose at the designated corporate trust operations office of the Registrar, by the registered owner thereof in person, or by his or her attorney duly authorized in writing, upon surrender of such Refunding Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or his or her attorney duly authorized in writing, and thereupon a new fully registered Refunding Bond or Refunding Bonds in the same aggregate principal amount and of the same maturity shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. Each Refunding Bond may be transferred or exchanged without cost to the registered

owner or his or her attorney duly authorized in writing, except for any tax or other governmental charge which may be required to be paid with respect to such transfer or exchange. The Registrar shall not be obligated to make any transfer or exchange of any Refunding Bond (i) during the fifteen (15) days immediately preceding an Interest Payment Date or (ii) after the mailing of notice calling such Refunding Bond for redemption. The Town, the Registrar and the Paying Agent may treat and consider the person in whose name any Refunding Bond is registered as the absolute owner thereof for all purposes including the purpose of receiving payment of, or on account of, the principal thereof and redemption premium, if any, and interest thereon.

In the event any Refunding Bond is mutilated, lost, stolen or destroyed, the Town may cause to be executed and the Registrar may authenticate a new Refunding Bond of like date, maturity and denomination as the mutilated, lost, stolen or destroyed Refunding Bond, which new Refunding Bond shall be marked in a manner to distinguish it from the Refunding Bond for which it was issued; provided, that in the case of any mutilated Refunding Bond, such mutilated Refunding Bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed Refunding Bond there shall be first furnished to the Registrar evidence of such loss, theft or destruction satisfactory to the Town and the Registrar, together with indemnity satisfactory to them. In the event that any such mutilated, lost, stolen or destroyed Refunding Bond shall have matured or been called for redemption, instead of causing to be issued a duplicate Refunding Bond, the Registrar and Paying Agent may pay the same upon surrender of the mutilated Refunding Bond or satisfactory indemnity and proof of loss, theft or destruction in the case of a lost, stolen or destroyed Refunding Bond. The Town and the Registrar and Paying Agent may charge the owner of any such Refunding Bond with their reasonable fees and expenses in connection with the above. Every substitute Refunding Bond issued by reason of any Refunding Bond being lost, stolen or destroyed shall, with respect to such Refunding Bond, constitute a substitute contractual obligation of the Town pursuant to this Ordinance, whether or not the lost, stolen or destroyed Refunding Bond shall be found at any time, and shall be entitled to all the benefits of this Ordinance, equally and proportionately with any and all other Refunding Bonds duly issued hereunder.

In the event that any Refunding Bond is not presented for payment or redemption on the date established therefor, the Town may deposit in trust with the Paying Agent an amount sufficient to pay such Refunding Bond or the redemption price thereof, as appropriate, and thereafter the owner of such Refunding Bond shall look only to the funds so deposited in trust with the Paying Agent for payment and the Town shall have no further obligation or liability with respect thereto.

SECTION 3. Redemption of Refunding Bonds. The Clerk-Treasurer, upon consultation with the Municipal Advisor, may designate maturities of Refunding Bonds (or portion thereof in integral multiples of Five Thousand Dollars (\$5,000) principal amount each) that shall be subject to optional redemption and/or maturity sinking fund redemption, and the corresponding redemption dates, amounts and prices (including premium, if any). Except as otherwise set forth in this Ordinance, the Clerk-Treasurer, upon consultation with the Municipal Advisor, is hereby authorized and directed to determine the terms governing any such redemption, as evidenced by the delivery of the Refunding Bonds.

If any Refunding Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Refunding Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the Town, any

Refunding Bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each Refunding Bond maturing as a term bond so delivered or cancelled shall be credited by the Paying Agent at one hundred percent (100%) of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the Refunding Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such Refunding Bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date.

Each Five Thousand Dollars (\$5,000) principal amount shall be considered a separate bond for purposes of optional and mandatory redemption. If less than an entire maturity is called for redemption, the Refunding Bonds to be called shall be selected by lot by the Registrar.

Notice of such redemption shall be mailed by certified or registered mail at least thirty (30) days and not more than sixty (60) days prior to the scheduled redemption date to each of the registered owners of the Refunding Bonds called for redemption (unless waived by such registered owner), at the address shown on the books of the Registrar. The notice shall specify date and place of redemption, the registration numbers of the Refunding Bonds called for redemption, and any conditions precedent to such redemption. The place of redemption may be at the designated corporate trust operations office of the Paying Agent or as otherwise determined by the Town. Interest on the Refunding Bonds so called for redemption shall cease to accrue on the redemption date fixed in such notice, if sufficient funds are available at the place of redemption to pay the redemption price on the redemption date and when such Refunding Bonds are presented for payment.

In addition to the foregoing notice, the Town may also direct that further notice of redemption of the Refunding Bonds be given, including without limitation and at the option of the Town, notice described in paragraph (a) below given by the Registrar to the parties described in paragraph (b) below. No defect in any such further notice and no failure to give all or any portion of any such further notice shall in any manner defeat the effectiveness of any call for redemption of Refunding Bonds so long as notice thereof is mailed as prescribed above.

(a) If so directed by the Town, each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (i) the CUSIP numbers of all Refunding Bonds being redeemed; (ii) the date of issue of the Refunding Bonds as originally issued; (iii) the rate of interest borne by each Refunding Bond being redeemed; (iv) the maturity date of each Refunding Bond being redeemed; and (v) any other descriptive information needed to identify accurately the Refunding Bond being redeemed.

(b) If so directed by the Town, each further notice of redemption shall be sent at least thirty (30) days before the redemption date by registered or certified mail or overnight delivery service to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Refunding Bonds (such depositories as the Depository Trust

Company of New York, New York) and to one or more national information services that disseminate notices of redemption of obligations such as the Refunding Bonds.

Upon the payment of the redemption price of the Refunding Bonds being redeemed and if so directed by the Town, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Refunding Bonds being redeemed with the proceeds of such check or other transfer.

SECTION 4. Authorization for Book-Entry System. The Refunding Bonds may, in compliance with all applicable laws and as determined by the Clerk-Treasurer based upon the advice of the Municipal Advisor, initially be issued and held in book-entry form on the books of the central depository system, The Depository Trust Company, its successors, or any successor central depository system appointed by the Town from time to time (the "Clearing Agency"), without physical distribution of bonds to the purchasers. The following provisions of this Section apply in such event.

One definitive Refunding Bond of each maturity shall be delivered to the Clearing Agency (or its agent) and held in its custody. The Town and Registrar may, in connection herewith, do or perform or cause to be done or performed any acts or things not adverse to the rights of the holders of the Refunding Bonds as are necessary or appropriate to accomplish or recognize such book-entry form Refunding Bonds.

During any time that the Refunding Bonds are held in book-entry form on the books of a Clearing Agency, (1) any such Refunding Bond may be registered upon Registration Record in the name of such Clearing Agency, or any nominee thereof, including Cede & Co.; (2) the Clearing Agency in whose name such Refunding Bond is so registered shall be, and the Town and the Registrar and Paying Agent may deem and treat such Clearing Agency as, the absolute owner and holder of such Refunding Bond for all purposes of this Ordinance, including, without limitation, the receiving of payment of the principal of and interest and premium, if any, on such Refunding Bond, the receiving of notice and the giving of consent; (3) neither the Town nor the Registrar or Paying Agent shall have any responsibility or obligation hereunder to any direct or indirect participant, within the meaning of Section 17A of the Securities Exchange Act of 1934, as amended, of such Clearing Agency, or any person on behalf of which, or otherwise in respect of which, any such participant holds any interest in any Refunding Bond, including, without limitation, any responsibility or obligation hereunder to maintain accurate records of any interest in any Refunding Bond or any responsibility or obligation hereunder with respect to the receiving of payment of principal of or interest or premium, if any, on any Refunding Bond, the receiving of notice or the giving of consent; and (4) the Clearing Agency is not required to present any Refunding Bond called for partial redemption, if any, prior to receiving payment so long as the Registrar and Paying Agent and the Clearing Agency have agreed to the method for noting such partial redemption.

If either the Town receives notice from the Clearing Agency which is currently the registered owner of the Refunding Bonds to the effect that such Clearing Agency is unable or unwilling to discharge its responsibility as a Clearing Agency for the Refunding Bonds, or the Town elects to discontinue its use of such Clearing Agency as a Clearing Agency for the Refunding Bonds, then the Town and the Registrar and Paying Agent each shall do or perform or cause to be

done or performed all acts or things, not adverse to the rights of the holders of the Refunding Bonds, as are necessary or appropriate to discontinue use of such Clearing Agency as a Clearing Agency for the Refunding Bonds and to transfer the ownership of each of the Refunding Bonds to such person or persons, including any other Clearing Agency, as the holder of the Refunding Bonds may direct in accordance with this Ordinance. Any expenses of such discontinuance and transfer, including expenses of printing new certificates to evidence the Refunding Bonds, shall be paid by the Town.

During any time that the Refunding Bonds are held in book-entry form on the books of a Clearing Agency, the Registrar shall be entitled to request and rely upon a certificate or other written representation from the Clearing Agency or any participant or indirect participant with respect to the identity of any beneficial owner of the Refunding Bonds as of a record date selected by the Registrar. For purposes of determining whether the consent, advice, direction or demand of a registered owner of a Refunding Bond has been obtained, the Registrar shall be entitled to treat the beneficial owners of the Refunding Bonds as the bondholders and any consent, request, direction, approval, objection or other instrument of such beneficial owner may be obtained in the fashion described in this Ordinance.

During any time that the Refunding Bonds are held in book-entry form on the books of a Clearing Agency, Town Council President, Clerk-Treasurer and/or the Registrar are authorized to execute and deliver a Letter of Representations agreement with the Clearing Agency, or a Blanket Issuer Letter of Representations, and the provisions of any such Letter of Representations or any successor agreement shall control on the matters set forth therein. The Registrar, by accepting the duties of Registrar under this Ordinance, agrees that it will (i) undertake the duties of agent required thereby and that those duties to be undertaken by either the agent or the issuer shall be the responsibility of the Registrar, and (ii) comply with all requirements of the Clearing Agency, including without limitation same day funds settlement payment procedures. Further, during any time that the Refunding Bonds are held in book-entry form, the provisions of this Section 4 of this Ordinance shall control over conflicting provisions in any other section of this Ordinance.

SECTION 5. Execution and Authentication of the Refunding Bonds. In accordance with the terms hereof and the provisions of Indiana Code 5-1-3 and Indiana Code 5-1-14-18, the Refunding Bonds shall be executed in the name of the Town by the manual, facsimile or electronic signature (as defined in Indiana Code 26-2-8-102(10), as amended) of the Town Council President, and attested by the manual, facsimile or electronic signature of the Clerk-Treasurer, with the seal of the Town, if any, or a facsimile thereof to be affixed to each of the Refunding Bonds. The Refunding Bonds shall be authenticated by the manual, facsimile or electronic signature of the Registrar, and no Refunding Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed. In case any official whose signature appears on any Refunding Bond shall cease to be such official before the delivery of such Refunding Bond, the signature of such official shall nevertheless be valid and sufficient for all purposes, the same as if such official had been in office at the time of such delivery. Subject to the provisions of this Ordinance regarding the registration of the Refunding Bonds, the Refunding Bonds shall be fully negotiable instruments under the laws of the State of Indiana.

SECTION 6. Security and Sources of Payment; Pledge of Net Revenues. The Refunding Bonds, and any bonds hereafter issued on a parity therewith, as to both principal and interest, shall

be payable from and secured by, and shall constitute a first charge upon, all of the Net Revenues (herein defined as gross revenues of the Waterworks of the Town remaining after the payment of the reasonable expenses of operation, repair and maintenance, excluding transfers from payment in lieu of property taxes) derived from the Waterworks, including all such Net Revenues from the existing works and all additions and improvements thereto and replacements thereof subsequently constructed or acquired, to be set aside in the Sinking Fund, which are hereby irrevocably pledged to the payment of the Refunding Bonds, to the extent necessary for that purpose. The Town shall not be obligated to pay the Refunding Bonds or the interest thereon except from the Net Revenues of the Waterworks, and the Refunding Bonds shall not constitute an indebtedness of the Town within the meaning of the provisions and limitations of the constitution of the State of Indiana. The Refunding Bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein.

SECTION 7. Form of the Refunding Bonds. The form and tenor of the Refunding Bonds shall be substantially as set forth in Exhibit A, attached hereto and incorporated herein as if set forth at this place (with all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery thereof).

SECTION 8. Issuance, Sale and Delivery of the Refunding Bonds. The Clerk-Treasurer is hereby authorized and directed to have the Refunding Bonds prepared, and the Town Council President and the Clerk-Treasurer are hereby authorized and directed to execute or to cause the execution of the Refunding Bonds in the form and manner herein provided. The Clerk-Treasurer is hereby authorized and directed to deliver the Refunding Bonds to the purchaser or purchasers thereof upon compliance with the requirements established hereunder and under the Act for the sale thereof, and to collect the full amount which the purchaser or respective purchasers have agreed to pay therefor, which shall not be less than ninety-nine percent (99.0%) of the par amount of the Refunding Bonds, plus accrued interest thereon to the date of delivery, and a maximum net discount of one percent (1.0%) of the par amount of the Refunding Bonds. The Refunding Bonds, when fully paid for and delivered to the purchaser or purchasers shall be the binding special revenue obligations of the Town, payable out of the Net Revenues of the Waterworks to be set aside and paid into the Sinking Fund as herein provided, and the proceeds derived from the sale of the Refunding Bonds shall be and are hereby set aside for the application to the costs of refunding the Refunded Bonds and the expenses necessarily incurred in connection therewith including the expenses incurred in the issuance of the Refunding Bonds on account of the financing thereof. The authorized officers of the Town are hereby authorized and directed to draw all proper and necessary warrants and to do whatever other acts and things that may be necessary or appropriate to carry out the provisions of this Ordinance.

If the Refunding Bonds are sold by competitive bid, the Clerk-Treasurer shall cause to be published either (i) a notice of such sale two (2) times, at least one (1) week apart, with the first publication made at least fifteen (15) days before the date of such sale and the second publication at least three (3) days before the date of the sale in accordance with Indiana Code 5-3-1-2 in one (1) newspaper, as defined in and in accordance with Indiana Code 5-3-1-4, or (ii) a notice of intent to sell bonds once each week for two (2) weeks in accordance with Indiana Code 5-1-11-2 and Indiana Code 5-3-1-4 and in a newspaper of general circulation published in the State capital, in which case bids may not be received more than ninety (90) days after the first publication. Such notice, or a summary thereof, may also be published in any other publications deemed appropriate

in the discretion of the Clerk-Treasurer. The bond sale notice shall state the time and place of sale, the purpose for which the Refunding Bonds are being issued, the total amount and maturities thereof, the maximum rate of interest thereon and any limitations as to the number of interest rates and the setting of such rates, the terms and conditions upon which bids will be received and the sale made, and such other information as the Clerk-Treasurer and the attorneys employed by the Town shall deem necessary or advisable. Such notice shall provide, among other things, that each bid shall be accompanied by a certified or cashier's check or wire transfer in the amount of one percent of the par amount of the Refunding Bonds to guarantee performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of and pay for the Refunding Bonds as soon as the Refunding Bonds are ready for delivery, or at the time fixed in the notice of sale, then such check and the proceeds thereof shall become the property of the Town and shall be considered as the Town's liquidated damages on account of such default.

All bids for the Refunding Bonds shall be sealed and shall be presented to the Clerk-Treasurer or his or her designee at the physical or electronic address identified in the notice. Bidders for the Refunding Bonds shall be required to name the rate or rates of interest which the Refunding Bonds are to bear, not exceeding five percent (5.0%) per annum. Such interest rate or rates shall be in multiples of one-eighth (1/8) or one-hundredth (1/100) of one percent. Bids specifying more than one interest rate shall also specify the amount and maturities of the Refunding Bonds bearing each rate, and all Refunding Bonds maturing on the same date shall bear the same rate. The rate on any maturity shall be equal to or greater than the rate on the immediately preceding maturity. The Refunding Bonds shall be awarded by the Clerk-Treasurer to the best bidder who has submitted a bid in accordance with the terms of this Ordinance and the notice of sale. The best bidder will be the bidder who offers the lowest net interest cost to the Town, to be determined by computing the total interest on all of the Refunding Bonds from the date thereof to their respective maturities and deducting therefrom the premium bid, if any. No bid for less than all of the Refunding Bonds, plus accrued interest to the date of delivery, shall be considered. The Town shall have the right to reject any and all bids. In the event an acceptable bid is not received on the date fixed in the notice, the Clerk-Treasurer shall be authorized to continue the sale from day to day for a period of not to exceed thirty (30) days without readvertising. During the continuation of the sale, no bid shall be accepted which offers an interest cost which is equal to or higher than the best bid received at the time originally fixed for the sale of the Refunding Bonds in the bond sale notice.

As an alternative to competitive bid, the Clerk-Treasurer may negotiate the sale or negotiate the sale to a private purchaser of said Refunding Bonds at an interest rate or rates not exceeding five percent (5.0%) per annum. The Town Council President and the Clerk-Treasurer are hereby authorized to (i) execute a purchase agreement, bond placement agreement, term sheet or similar instrument (collectively, the "Purchase Agreement") with the purchaser, and (ii) sell such Refunding Bonds upon such terms as are acceptable to the Town Council President and the Clerk Treasurer consistent with the terms of this Ordinance. The final form of the Purchase Agreement shall be approved by the Town Council President and Clerk-Treasurer, upon the advice of the Town's bond counsel and Municipal Advisor, and the Town Council President and Clerk-Treasurer are hereby authorized and directed to complete, execute and attest the same on behalf of the Town so long as its provisions are consistent with the Ordinance.

The Clerk-Treasurer is hereby authorized to appoint a financial institution to serve as escrow agent (the "Escrow Agent") for the Refunded Bonds in accordance with the terms of an Escrow Agreement between the Town and the Escrow Agent (the "Escrow Agreement"). The final form of the Escrow Agreement shall be approved by the Town Council President and Clerk-Treasurer, upon the advice of the Town's bond counsel and Municipal Advisor, and the Town Council President and the Clerk-Treasurer are hereby authorized and directed to complete, execute and attest the same on behalf of the Town so long as its provisions are consistent with this Ordinance and the purchase agreement.

The execution, by either the Town Council President, Clerk-Treasurer, or the purchaser of the Refunding Bonds of a subscription for investments of proceeds of the Refunding Bonds to be held under the Escrow Agreement in a manner consistent with this Ordinance is hereby authorized and approved.

Prior to the delivery of the Refunding Bonds, the Clerk-Treasurer (i) shall be authorized, but not required, to investigate and to obtain insurance, surety bonds and/or credit ratings on the Refunding Bonds and (ii) shall obtain a legal opinion as to the validity of the Refunding Bonds from Frost Brown Todd LLC, Indianapolis, Indiana, bond counsel for the Town, and such opinion shall be furnished to the purchasers of the Refunding Bonds at the expense of the Town. The costs of obtaining any such insurance, surety bonds and/or credit ratings, together with bond counsel's fee in preparing and delivering such opinion and in the performance of related services in connection with the issuance, sale and delivery of the Refunding Bonds, shall be considered as a part of the cost of issuance of the Refunding Bonds and shall be paid out of the proceeds of the sale of the Refunding Bonds. Assignment of CUSIP numbers and related charges shall be the responsibility of the purchaser if required.

SECTION 9. Official Statement; Other Documents. Any series of the Refunding Bonds may be offered and sold pursuant to an Official Statement (preliminary and final) or other offering document with respect to such Refunding Bonds (collectively, the "Official Statement"), to be made available and distributed in such manner, at such times, for such periods and in such number of copies as may be required pursuant to Rule 15c2-12, as amended, promulgated by the United States Securities and Exchange Commission (the "Rule") and any and all applicable rules and regulations of the Municipal Securities Rulemaking Board, to the extent applicable to the Refunding Bonds. The Town hereby authorizes the Town Council President or Clerk-Treasurer (a) to authorize and approve a Preliminary Official Statement, as the same may be appropriately confirmed, modified and amended for distribution as the Preliminary Official Statement of the Town with respect to the Refunding Bonds, (b) on behalf of the Town, to designate the Preliminary Official Statement a "final" Official Statement of the Town with respect to the Refunding Bonds, and (c) to authorize and approve the Preliminary Official Statement to be placed into final form and enter into such agreements or arrangements as may be necessary or advisable in order to provide for the distribution of a sufficient number of copies of the Official Statement under the Rule. The President of the Town Council and the Clerk-Treasurer are further authorized to approve the form and distribution of any other offering materials that may be recommended by the Town's Municipal Advisor in connection with a private placement for the Bonds.

SECTION 10. Continuing Disclosure. If required under the Rule, the Town Council hereby approves, and authorizes and directs the Town Council President and the Clerk-Treasurer,

for and on behalf of the Town, to execute and deliver, and to perform the obligations of the Town under, a Continuing Disclosure Agreement from the Town to each registered owner or holder of any Refunding Bond (the "Continuing Disclosure Agreement"). The Town Council President and the Clerk-Treasurer are authorized to approve the form of the Continuing Disclosure Agreement, upon the advice of the Town's bond counsel, with such determination to be conclusively evidenced by such Town Council President's and such Clerk-Treasurer's execution thereof.

SECTION 11. Use of Proceeds of Refunding Bonds. Proceeds of the Refunding Bonds shall be applied as follows and in the following order of priority:

(a) *First*, concurrently with the delivery of the Refunding Bonds, the Clerk-Treasurer may acquire (subject to the terms of the 2014 Ordinance), with the proceeds of the Refunding Bonds and cash on hand, direct obligations of, or obligations the principal and interest on which are unconditionally guaranteed by, the United States of America (the "Government Obligations"), to be used, together with certain cash from the proceeds of the Refunding Bonds and cash on hand, if any, as set forth in the Escrow Agreement, to refund and legally defease the Refunded Bonds all as set forth in the Escrow Agreement. In order to refund the Refunded Bonds, the Clerk-Treasurer shall deposit the Government Obligations and certain cash, if any, with the Escrow Agent under the Escrow Agreement in an amount sufficient to provide moneys for the payment of the principal of and interest and redemption premium, if any, on the Refunded Bonds until the earliest date upon which the Refunded Bonds may be called for redemption. As an alternative to purchasing Government Obligations, the Clerk-Treasurer, with the advice of the Municipal Advisor, may deposit proceeds of the Refunding Bonds and cash on hand with the Escrow Agent in an amount sufficient to currently refund and legally defease the Refunded Bonds. If required for the legal defeasance of the Refunded Bonds, the Clerk-Treasurer shall obtain a verification of an accountant as to the sufficiency of the Government Obligations (if any) and funds deposited in the irrevocable escrow account created under the Escrow Agreement (the "Escrow Account") to accomplish said refunding and legal defeasance of the Refunded Bonds.

(b) *Second*, if proceeds of the Refunding Bonds will be used to fund all or a portion of the Reserve Account (as defined herein), the Clerk-Treasurer shall transfer such proceeds to the Reserve Account of the Sinking Fund, as hereinafter described.

(c) *Third*, the remaining proceeds of the Refunding Bonds shall be applied by the Clerk-Treasurer to the cost of issuance of the Refunding Bonds not otherwise paid. When all the costs of issuance of the Refunding Bonds have been paid, the Clerk-Treasurer shall then transfer any amount then remaining from the proceeds of the Refunding Bonds to the hereinafter described Sinking Fund.

SECTION 12. Revenue Fund. The Town shall segregate, deposit and keep in a special fund hereby continued, separate and apart from all other funds of the Town, all gross revenues received on account of the rates and charges of the Waterworks (the "Revenue Fund"). Out of said revenues, the proper and reasonable expenses of operation, repair and maintenance of the waterworks shall be paid, the principal and interest of all bonds and fiscal agency charges of registrars or bank paying agents shall be paid, reserves shall be funded, and the costs of replacements, extensions, additions and improvements shall be paid as hereinafter provided.

SECTION 13. Operation and Maintenance Fund There is hereby continued a fund known as the Operation and Maintenance Fund (the "O&M Fund"). There shall be transferred from the Revenue Fund into the O&M Fund on the last day of each calendar month, a sufficient amount to pay the expenses of operation, repair and maintenance of the Waterworks for the then next succeeding two (2) calendar months. The moneys credited to the O&M Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the Waterworks on a day-to-day basis, but none of the moneys in the O&M Fund shall be used for transfers for payment in lieu of property taxes, depreciation, improvements, extensions or additions. Any moneys in the O&M Fund may be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of and interest on the outstanding bonds of the Waterworks, or if necessary to eliminate any deficiencies in credits to, or minimum balance in, the Reserve Account, as defined and described below.

SECTION 14. Waterworks Sinking Fund. (a) There is hereby continued a special fund designated the Waterworks Sinking Fund (the "Sinking Fund") for the payment of the principal of and interest on revenue bonds which by their terms are payable from the Net Revenues of the Waterworks and the payment of any fiscal agency charges in connection with the payment of the bonds and interest. There shall be set aside, transferred and deposited into the Sinking Fund from the Revenue Fund, as available and as hereinafter provided, a sufficient amount of the Net Revenues of the Waterworks to meet the requirements of the Bond and Interest Account and the Reserve Account hereby continued in the Sinking Fund. Such payments shall continue until the balances in the Bond and Interest Account and the Reserve Account equal the principal of and interest on all of the then outstanding bonds of the Waterworks to their final maturity and provide for payment of all fiscal agency charges.

(b) Bond and Interest Account. The Bond and Interest Account within the Sinking Fund is hereby continued. Any moneys heretofore accumulated in the Bond and Interest Account to pay principal of and interest on the Refunded Bonds shall be either (i) credited to and become a part of the Escrow Account and shall be applied on the earliest payments made from the Escrow Account, or (ii) if applicable, applied to the immediate payment of the Refunded Bonds on the date of issuance of the Refunding Bonds. There shall be transferred on the last day of each calendar month from the Revenue Fund to the Bond and Interest Account an amount of the Net Revenues equal to at least one-sixth (1/6) of the interest on all then outstanding bonds of the Waterworks payable on the then next succeeding Interest Payment Date and at least one-sixth (1/6) of the principal on all then outstanding bonds of the Waterworks payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding interest and principal payment date shall have been so credited; provided, that such fractional amounts shall be appropriately increased, if necessary, to provide for the first interest and principal payments on the Refunding Bonds. There shall similarly be credited to the Bond and Interest Account any amount necessary to pay the paying agent or other fiscal agency charges, if any, for paying principal and interest on the bonds as the same become payable. The Town shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the paying agent sufficient moneys to pay the interest and principal on the due dates thereof together with the amount of any paying agent or other fiscal agency charges.

(c) Debt Service Reserve Account. The Debt Service Reserve Account within the Sinking Fund is hereby continued (the "Reserve Account"). On the date of delivery of the Refunding Bonds, the Town may cause funds on hand of the Waterworks, proceeds of the Refunding Bonds or such other bonds, or a combination thereof to be deposited into the Reserve Account. The balance to be maintained in the Reserve Account shall equal but not exceed the least of: (i) the maximum annual debt service on the Refunding Bonds and any Additional Parity Bonds (as defined herein); (ii) one hundred twenty-five percent (125%) of the average annual debt service on the Refunding Bonds and any Additional Parity Bonds; or (iii) ten percent (10%) of the stated principal amount or issue price, determined in accordance with U.S. Treasury Regulation Section 1.148-2(f)(2)(ii), of the Refunding Bonds and any Additional Parity Bonds (the "Reserve Requirement").

If the initial deposit into the Reserve Account does not equal the Reserve Requirement or if no deposit is made, the Town shall deposit a sum of Net Revenues into the Reserve Account on the last day of each calendar month, beginning with the first month after the Refunding Bonds are delivered, until the balance therein equals the Reserve Requirement. The monthly deposits shall be equal in amount and sufficient to accumulate the Reserve Requirement within five (5) years of the date of delivery of the Refunding Bonds.

The Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the Refunding Bonds and any Additional Parity Bonds, and the moneys in the Reserve Account shall be used to pay current principal and interest on the Refunding Bonds and any Additional Parity Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Reserve Account shall be promptly made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. If moneys in the Reserve Account are transferred to the Bond and Interest Account to pay principal and interest on outstanding bonds, then such depletion of the balance in the Reserve Account shall be made up from the next available Net Revenues after the credits into the Bond and Interest Account. Any moneys in the Reserve Account in excess of the Reserve Requirement shall either be transferred to the Improvement Fund (as defined herein) or be used for the purchase of outstanding bonds or installments of principal of fully registered bonds at a price not exceeding the par plus accrued interest and redemption premium, if any.

Notwithstanding anything herein to the contrary, the Town reserves the right to satisfy the Reserve Account at any time with funds on hand of the Waterworks, proceeds of the Refunding Bonds or other bonds, a debt service reserve surety bond, a rollover of the existing Reserve Account for the Refunded Bonds, or a combination thereof. Any such surety bond must be issued by an insurance company rated at the time of issuance of such instrument in one of the two highest rating categories by Standard & Poor's Global Ratings Services, Moody's Investors Service, Fitch Ratings, Inc., or Kroll Bond Rating Agency, LLC. If such surety bond is purchased, the Town Council President and the Clerk-Treasurer are hereby authorized to execute and deliver all agreements with the provider of the surety bond to the extent necessary to comply with the terms of such surety bond and the commitment to issue such surety. Such agreement shall be deemed a part of this Ordinance for all purposes and is hereby incorporated herein by reference.

SECTION 15. Waterworks Improvement Fund. After meeting the requirements of the O&M Fund and the Sinking Fund, any excess Net Revenues may be transferred or credited to the fund previously designated as the Waterworks Improvement Fund (the "Improvement Fund"), hereby continued. The Improvement Fund shall be used for improvements, replacements, additions and extensions of the waterworks. The Town reserves the right to transfer payments in lieu of taxes no more frequently than semiannually in accordance with the Act, and only if all required transfers have been made to the Sinking Fund and the accounts of the Sinking Fund contain the required balances as of the date the payments in lieu of taxes are paid. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal and interest on the then outstanding bonds or, if necessary, to eliminate any deficiencies in credits to, or minimum balance in, the Reserve Account of the Sinking Fund or may be transferred to the O&M Fund to meet unforeseen contingencies in the operation and maintenance of the Waterworks.

SECTION 16. Maintenance of Funds; Investments. The proceeds from the sale of the Refunding Bonds shall be deposited in a bank or banks which are legally designated depositories for the funds of the Town, in a special account or accounts. The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the Town. The O&M Fund and the Improvement Fund may be maintained in a single account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the Town and apart from the Sinking Fund account or accounts. All of the funds and accounts of the Waterworks created or continued by this Ordinance, and all moneys deposited therein, shall be continuously maintained, deposited, held, secured and invested as public funds in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including, particularly, applicable provisions of Indiana Code 5-13 and the acts amendatory thereof and supplemental thereto. Any interest or income derived from any such investments shall become a part of the moneys in the fund or account so invested and shall be used only as provided in this Ordinance. In no event shall any of the Net Revenues of the Waterworks be transferred or used for any purpose not authorized by this Ordinance so long as any of the bonds secured by and payable from the Net Revenues shall be outstanding. Upon issuance of the Refunding Bonds.

SECTION 17. Books of Records and Accounts. The Town shall keep proper record books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues collected on account of the operation of the Waterworks and all disbursements made therefrom and all transactions relating to the Waterworks. Copies of all such statements and reports shall be kept on file in the office of the Clerk-Treasurer. There shall be prepared and furnished, upon the written request, to any owner of the Refunding Bonds then outstanding, not more than ninety (90) days after the close of each fiscal year, complete financial statements of the Waterworks, covering the preceding fiscal year. Copies of all such statements and reports shall be kept on file in the office of the Clerk-Treasurer. Any owner of the Refunding Bonds then outstanding shall have the right at all reasonable times to inspect the Waterworks and all records, accounts and data of the Town relating thereto. Such inspections may be made by representatives duly authorized by written instrument.

SECTION 18. Rate Covenant. The Town Council has previously adopted Ordinance No. 2021-OR-006 (the "Rate Ordinance"), imposing fees and charges for the several classes of users

or property to be served by the Waterworks utility, which Rate Ordinance (as the same may be subsequently amended or modified from time to time) is incorporated herein by reference as if fully included and set forth in this Ordinance. The Town covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the service rendered by the Waterworks, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said Waterworks by or through any part of the waterworks system of the Town, or that in any way uses or is served by such works, at a level adequate to produce and maintain sufficient revenue (including user and other charges, fees, income or revenues available to the Town), to provide for the proper operation, repair and maintenance of the Waterworks, to comply with and satisfy all covenants contained in this Ordinance and to pay all obligations of the Waterworks and of the Town with respect to the Waterworks. Such rates and charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance of the Waterworks and the requirements of the Sinking Fund. The rates or charges so established shall apply to any and all use of such Waterworks by and service rendered to the Town and all departments thereof, and shall be paid by the Town or the various departments thereof as the charges accrue.

SECTION 19. Defeasance. If, when any of the Refunding Bonds issued hereunder shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Refunding Bonds or any portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Refunding Bonds or any portion thereof and coupons then outstanding shall be paid; or (i) sufficient moneys, (ii) direct obligations of, or obligations the principal and interest on which are unconditionally guaranteed by, the United States of America, the principal of and the interest on which when due will provide sufficient moneys, or (iii) any combination thereof, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the Refunding Bonds issued hereunder or any designated portion thereof shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the Town's waterworks.

SECTION 20. Additional Bond Provisions. The Town reserves the right to authorize and issue additional parity bonds, payable out of the Net Revenues of its waterworks, ranking on a parity with the pledge thereof to the Refunding Bonds (such bonds, the "Additional Parity Bonds"), for the purpose of financing the cost of future extensions, betterments or improvements to the Waterworks, or to refund obligations, subject to the following conditions:

(a) All required payments into the Sinking Fund and the accounts thereof shall have been made in accordance with the provisions of this Ordinance, and the interest on and principal of all bonds payable from the Net Revenues of the waterworks shall have been paid to date in accordance with their terms.

(b) (i) The Net Revenues of the waterworks in the fiscal year immediately preceding the issuance of any such proposed Additional Parity Bonds shall be not less than one hundred twenty-five percent (125%) of the average annual interest and principal requirements of all of then outstanding bonds payable from the Net Revenues of the Waterworks and the Additional Parity Bonds proposed to be issued; or (ii) prior to the issuance of the proposed Additional Parity Bonds, the water rates and charges shall be increased sufficiently so that the increased rates and charges,

if realized and when applied to the previous fiscal year's operations, would have produced Net Revenues for said year equal to an amount not less than one hundred twenty-five percent (125%) of the average annual interest and principal requirements of all bonds payable from the Net Revenues of the Waterworks and the Additional Parity Bonds proposed to be issued. For purposes of this subsection, the records of the Waterworks shall be analyzed and all showings shall be prepared by an independent certified public accountant or nationally recognized firm of professional consultants experienced in analyzing financial records of municipal utilities employed by the Town for that purpose who shall certify the satisfaction of the foregoing conditions for the issuance of parity bonds.

(c) The interest on any Additional Parity Bonds shall be payable semiannually on the first days of January and July and the principal of, or the mandatory sinking fund redemption dates for, any Additional Parity Bonds shall be payable semiannually on the first days of January and July.

(d) The Reserve Requirement shall be satisfied for the Additional Parity Bonds either as of the date of delivery of said Additional Parity Bonds or through equal monthly deposits of Net Revenues sufficient to accumulate the reserve in a manner commensurate with and proportional to the provisions established by Section 14(c) of this Ordinance.

SECTION 21. Additional Covenants of the Town. For the purpose of further safeguarding the interests of the owners of the Refunding Bonds, it is hereby specifically provided as follows:

(a) So long as any of the Refunding Bonds are outstanding, the Town shall at all times maintain its waterworks system in good condition and operate the same in an efficient manner and at a reasonable cost.

(b) So long as any of the Refunding Bonds are outstanding, the Town shall acquire and maintain insurance coverage, including fidelity bonds, to protect the waterworks and its operations of a kind and in an amount such as is automatically carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. All insurance proceeds and condemnation awards shall be used to replace or repair the property destroyed or damaged.

(c) So long as any of the Refunding Bonds are outstanding, the Town shall not mortgage, pledge or otherwise encumber the property and plant of its waterworks system, or any part thereof, and shall not sell, lease or otherwise dispose of any part of the same, except to replace equipment which may become worn out or obsolete.

(d) Except as hereinbefore provided in Section 20 hereof, so long as any of the Refunding Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said waterworks shall be authorized, executed, or issued by the Town except such as shall be made subordinate and junior in all respects to the Refunding Bonds, unless all of the Refunding Bonds are redeemed, retired or defeased coincidentally with the delivery of such additional bonds or other obligations or, as provided in Section 19 hereof, funds sufficient to effect such redemption are available and set aside for such purpose at the time of issuance of such additional bonds or obligations.

(e) The provisions of this Ordinance shall constitute a contract by and between the Town and the owners of the Refunding Bonds herein authorized, all the terms of which shall be enforceable by any bondholder by any and all appropriate proceedings in law or in equity. After the issuance of the Refunding Bonds, this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the owners of the Refunding Bonds, nor shall the Town Council or any other body of the Town adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as any of the Refunding Bonds, the interest thereon remain outstanding or unpaid. Except for the changes set forth in Section 25(a)-(g), this Ordinance may be amended, however, without the consent of Refunding Bond owners, if the Town Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Refunding Bonds.

(f) The provisions of this Ordinance shall be construed to create a trust in the proceeds of the sale of the Refunding Bonds herein authorized for the uses and purposes herein set forth, and the owners of the Refunding Bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this Ordinance and of the governing Act. The provisions of this Ordinance shall also be construed to create a trust in the Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of said fund as in this Ordinance set forth. The owners of the Refunding Bonds shall have all the rights, remedies and privileges set forth in the provisions of the governing Act, including the right to have a receiver appointed to administer the waterworks in the event the Town shall fail or refuse to fix and collect sufficient rates and charges for those purposes, or shall fail or refuse to operate and maintain said system and to apply properly the revenues derived from the operation thereof, or if there be a default in the payment of the interest on or principal of the Refunding Bonds.

SECTION 22. Investment of Funds. (a) The Clerk-Treasurer is hereby authorized pursuant to Indiana Code 5-1-14-3 and the provisions of this Ordinance to invest moneys (subject to applicable requirements of federal law to ensure such yield is the then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the Refunding Bonds under federal law.

(b) The Clerk-Treasurer shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts referenced herein. In order to comply with the provisions of the ordinance, the Clerk-Treasurer is hereby authorized and directed to employ consultants or attorneys from time to time to advise the Town as to requirements of federal law to preserve the tax exclusion. The Clerk-Treasurer may pay any fees as operation expenses of the waterworks.

SECTION 23. Tax Covenants. In order to preserve the excludability of interest on the Refunding Bonds from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as existing on the date of issuance of the Refunding Bonds, as the case may be ("Code") and as an inducement to purchasers of the Refunding Bonds, the Town represents, covenants and agrees that:

(a) The waterworks will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the Town or another state or local governmental unit will use more

than ten percent (10%) of the proceeds of the Refunding Bonds or property financed or refinanced by the proceeds of the Refunding Bonds other than as a member of the general public. No person or entity other than the Town or another state or local governmental unit will own property financed or refinanced by proceeds of the Refunding Bonds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than ten percent (10%) of the proceeds of the Refunding Bonds. If the Town enters into a management contract for the waterworks, the terms of the contract will comply with IRS Revenue Procedure 2017-13, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in aggregate relates to no more than ten percent (10%) of the proceeds of the Refunding Bonds, as the case may be.

(b) No more than ten percent (10%) of the principal of or interest on the Refunding Bonds is (under the terms of the Refunding Bonds, this Ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be derived from payments (whether or not to the Town) in respect of such property or borrowed money used or to be used for a private business use.

(c) No more than five percent (5%) of the Refunding Bond proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than five percent (5%) of the Refunding Bond proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the Refunding Bond proceeds.

(d) The Town reasonably expects, as of the date hereof, that the Refunding Bonds will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the Refunding Bonds.

(e) No more than five percent (5%) of the proceeds of the Refunding Bonds will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The Town will not take any action nor fail to take any action with respect to the Refunding Bonds that would result in the loss of the exclusion from gross income for federal tax purposes on the Refunding Bonds pursuant to Section 103 of the Code, nor will the Town act in any other manner which would adversely affect such exclusion. The Town covenants and agrees not to enter into any contracts or arrangements which would cause the Refunding Bonds to be treated as private activity bonds under Section 141 of the Code.

(g) It shall be not an event of default under this Ordinance if the interest on any Refunding Bond is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Refunding Bonds.

(h) These covenants are based solely on current law in effect and in existence on the date of delivery of such Refunding Bonds.

(i) The Town represents that it will rebate any arbitrage profits to the United States in accordance with the Code.

(j) The Town Council hereby authorizes the Clerk-Treasurer to determine whether any series of Refunding Bonds qualify for the exception in the Code from the disallowance of one hundred percent (100%) of the deduction by financial institutions of interest expense allocable to newly acquired tax-exempt obligations. Such designation, if made, will be set forth in the arbitrage certificate delivered by the Town in connection with the Refunding Bonds.

SECTION 24. Waiver of Tax Covenants. Notwithstanding any other provision of this Ordinance, any of the covenants and authorizations contained in Section 23 of this Ordinance (the "Tax Covenants"), which are designed to preserve the exclusion of interest on the Refunding Bonds from gross income for purposes of federal income taxation, need not be complied with if the Town receives an opinion of nationally recognized bond counsel to the effect that compliance with such Tax Covenant is unnecessary to preserve such exclusion of interest.

SECTION 25. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this Section and Section 21(e), and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Refunding Bonds issued pursuant to this Ordinance and then outstanding shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the Town of such ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the Town for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this Ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest on any Refunding Bond issued pursuant to this Ordinance; or

(b) A reduction in the principal amount of any Refunding Bond or the redemption premium or the rate of interest thereon; or

(c) The creation of a lien upon or a pledge of the revenues of the waterworks ranking prior to the pledge thereof created by this Ordinance; or

(d) A preference or priority of any Refunding Bond or Refunding Bonds issued pursuant to this Ordinance over any other Refunding Bond or Refunding Bonds issued pursuant to the provisions of this Ordinance; or

(e) A reduction in the aggregate principal amount of the Refunding Bonds required for consent to such supplemental ordinance; or

(f) A reduction in the required balance to be held as a reserve for the Refunding Bonds;
or

(g) The extension of mandatory sinking fund redemption dates, if any.

If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Refunding Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk-Treasurer of the Town, no owner of any Refunding Bond issued pursuant to this Ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Town or its officers from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this Ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Ordinance of the Town and all owners of Refunding Bonds issued pursuant to the provisions of this Ordinance then outstanding, shall thereafter be determined exercised and enforced in accordance with this Ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this Ordinance, the rights and obligations of the Town and of the owners of the Refunding Bonds authorized by this Ordinance, and the terms and provisions of the Refunding Bonds and this Ordinance, or any supplemental ordinance, may be modified or altered in any respect with the consent of the Town and the consent of the owners of all the Refunding Bonds issued pursuant to this Ordinance then outstanding.

SECTION 26. Non-Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Ordinance, is a legal holiday or a day on which banking institutions in the area are typically closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are typically closed, with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal day.

SECTION 27. Other Actions. Each of the Town Council President and the Clerk-Treasurer is hereby authorized and directed, for an on behalf of the Town, to execute and deliver any agreement, certificate or other instrument or take any other action which such officer determines to be necessary or desirable to carry out the transactions contemplated by this Ordinance, which determination shall be conclusively evidenced by such officer's having executed such agreement, certificate or other instrument or having taken such other action, and any such agreement, certificate or other instrument heretofore executed and delivered and any such other action heretofore taken are hereby ratified and approved. Pursuant to Indiana Code 5-1-14-18, in connection with the issuance of the Refunding Bonds, the execution of the Refunding Bonds and any other contract, certificate or other document executed and delivered by or on behalf of the Town in connection with the issuance of the Refunding Bonds, is authorized to be executed and

delivered using electronic signatures (as defined in Indiana Code 26-2-8-102(10), as amended), rather than manual signatures, and any such Refunding Bonds or any other contract, certificate or other document executed and delivered by or on behalf of the Town in connection with the issuance of the Refunding Bonds using electronic signatures shall be considered fully legal and valid for all purposes and with the same force and effect as if the execution were performed with manual signatures.

SECTION 28. Construction with Other Ordinances. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 29. Severability; Interpretation. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance. Unless the context or laws clearly require otherwise, references herein to statutes or other laws include the same as modified, supplemented or superseded from time to time.

SECTION 30. Captions. The captions in this Ordinance are inserted only as a matter of convenience and reference, and such captions are not intended and shall not be construed to define, limit, establish, interpret or describe the scope, intent or effect of any provision of this Ordinance.

SECTION 31. Effective Date. This Ordinance shall be in full force and effect from and after its passage.

“Aye”

“Nay”

Brad Amos

Brad Amos
Council President

Brad Amos
Council President

Scott McVoy

Scott McVoy
Council Vice President

Scott McVoy
Council Vice President

Terry Langford

Terry Langford
Council 2nd Vice President

Terry Langford
Council 2nd Vice President

Matthew Czarneski

Matthew Czarneski
Council Member

Matthew Czarneski
Council Member

Randall Mobley

Randall Mobley
Council Member

Randall Mobley
Council Member

Michelle D. Miller

Attested by: Michelle Miller
Sellersburg Clerk-Treasurer

FIRST READING

DATE: 4/11/22

MOTION: Czarneski

SECOND: Mobley

VOTE: 5 AYE 0 NAY 0 ABSTAIN

SECOND READING

DATE: 4/11/22

MOTION: Czarneski

SECOND: Mobley

VOTE: 5 AYE 0 NAY 0 ABSTAIN

SYNOPSIS

This ordinance authorizes the Town of Sellersburg, Indiana to issue its Waterworks Refunding Revenue Bonds of 2022 (the "Refunding Bonds"), in one or more series, in the aggregate principal amount not to exceed \$6,800,000. The Refunding Bonds will be issued to refund the Town's currently outstanding Waterworks Revenue Bonds of 2014 for the purpose of obtaining lower interest costs and a reduction of debt service payments on such outstanding bonds, thereby achieving significant savings for the Town.

EXHIBIT A

R-__

[FORM OF REGISTERED BOND]

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF CLARK

TOWN OF SELLERSBURG, INDIANA
WATERWORKS REFUNDING REVENUE BOND OF 2022

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Date</u>	<u>Date of Authentication</u>	<u>[CUSIP]</u>
__%	___ 1, 20__	_____, 2022	_____, 2022	[_____]

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ Dollars (\$_____)

The Town of Sellersburg, in Clark County, State of Indiana, (the "Town") for value received, hereby promises to pay to the Registered Owner specified above, or registered assigns, upon surrender hereof, solely out of the special revenue fund hereinafter referred to, the Principal Amount stated above as evidenced by the records of the registered owner making payments for this bond, or its assigns, on the Maturity Date specified above (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest thereon until the Principal Amount is paid upon redemption or at maturity, at the Interest Rate per annum specified above and from the interest payment date to which interest has been paid or duly provided for next preceding the Date of Authentication of this bond as shown above (unless this bond is authenticated after the fifteenth day of the month immediately preceding an interest payment date (the "Record Date") and on or before the next such interest payment date, in which case it shall bear interest from such interest payment date or unless this bond is authenticated on or before [December/June] 1, 20__, in which case it shall bear interest from the Original Date specified above), with such interest payable semiannually on January 1 and July 1 of each year, commencing [January/July] 1, 20__. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

The principal of and premium, if any, on this Refunding Bond are payable upon the surrender thereof at the principal office of _____ (the "Registrar" or the "Paying Agent") in the _____, _____. All payments of interest on this Refunding Bond shall be paid by check mailed one business day prior to the interest payment date to the Registered Owner as of the Record Date at the address as it appears on the registrations books kept by the Registrar. Each Registered Owner of \$1,000,000 or more in principal amount of the Refunding Bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Paying Agent before the Record Date for any payment. All payments of principal of, and premium, if any, on the Refunding Bonds (as hereinafter defined) shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

THE TOWN SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE HEREINAFTER DESCRIBED SPECIAL FUND, AND NEITHER THIS BOND NOR THE ISSUE OF WHICH IT IS A PART SHALL IN ANY RESPECT CONSTITUTE A CORPORATE INDEBTEDNESS OF THE TOWN WITHIN THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA.

This bond is one of an authorized series of bonds of like date, tenor and effect, except as to denomination, numbering, rates of interest, redemption terms and dates of maturity, aggregating _____ Dollars (\$ _____), numbered and lettered consecutively from R-1 upward (the "Refunding Bonds"), issued for the purpose of providing funds to effect a current refunding of the Refunded Bonds (as defined in the Ordinance), [fund a debt service reserve fund] and pay the costs of issuance of the Refunding Bonds. This Refunding Bond is issued pursuant to an ordinance adopted by the Town Council of the Town on the ____ day of _____, 2022, entitled "An Ordinance Authorizing the Refunding of Certain Outstanding Waterworks Revenue Bonds of the Town; Authorizing the Issuance of the Town of Sellersburg, Indiana Waterworks Refunding Revenue Bonds of 2022 to Provide Funds for Such Refunding and the Payment of the Costs Thereof; and Addressing Other Matters Connected Therewith" (the "Ordinance"), and in accordance with the provisions of Indiana law, including, without limitation, Indiana Code 8-1.5-2 and Indiana Code 5-1-5, as amended (the "Act").

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this Refunding Bond, and any bonds hereafter issued on a parity therewith are payable solely from the Waterworks Sinking Fund (the "Sinking Fund") maintained under the Ordinance to be funded from the Net Revenues (herein defined as the gross revenues of the Waterworks (defined as the Town's Waterworks system, including all real estate, equipment and appurtenances thereto used in connection therewith, and all extensions, additions and improvements thereto and replacements thereof, now or at anytime hereafter constructed or acquired, after deduction only for the payment of the reasonable expenses of operation, repair and maintenance of the System).

The Town irrevocably pledges the entire Net Revenues of the Waterworks deposited into the Sinking Fund to the prompt payment of the principal of and interest on the Refunding Bonds and any bonds ranking on a parity therewith to the extent necessary for such purposes, and covenants that it will cause to be fixed, maintained and collected such rates and charges for services

rendered by the Waterworks as are sufficient in each year for the payment of the proper and reasonable expenses of operation and maintenance of the Waterworks and for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Ordinance. If the Town or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there shall be a default in the payment of the interest on or principal of this bond, the owner of this bond shall have all of the rights and remedies provided for in the Act, including the right to have a receiver appointed to administer the System and to charge and collect rates sufficient to provide for the payment of this bond and the interest hereon.

The Town further covenants that for so long as the Refunding Bonds and any bonds hereafter issued on a parity therewith (the "Additional Parity Bonds") remain outstanding, it will set aside and pay into the Sinking Fund a sufficient amount of the Net Revenues of the Waterworks for the payment of (a) the interest on all bonds payable from the revenues of the Waterworks, as such interest shall fall due, (b) the necessary fiscal agency charges for paying such bonds and interest, (c) the principal of all bonds payable from the revenues of the Waterworks, and (d) an additional amount as a margin of safety to create the reserve required by the Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues of the System. Reference is made to the Ordinance for a more complete statement of the revenues from which and conditions under which this bond is payable, a statement of the conditions on which obligations may hereafter be issued on a parity with this bond, the manner in which the Ordinance may be amended and the general covenants and provisions pursuant to which this bond has been issued.

[Insert optional redemption terms, if applicable].

[The bonds maturing on _____ 1, ___ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on the dates and in the amounts set forth below:

<u>Date</u>	<u>Amount</u>
-------------	---------------

*

*Final Maturity]

[Each Five Thousand Dollars (\$5,000) principal amount shall be considered a separate bond for purposes of mandatory redemption. If less than an entire maturity is called for redemption, the bonds to be redeemed shall be selected by lot by the Registrar.]

Notice of such redemption shall be mailed to the address of the registered owners of the Refunding Bonds to be redeemed as shown on the registration records of the Town, as of the date which is forty-five (45) days prior to such redemption date, not less than thirty (30) and not more than sixty (60) days prior to the date fixed for redemption, unless the notice is waived by the registered owner of the Refunding Bonds to be redeemed. The notice shall specify the date and place of redemption and sufficient identification of the Refunding Bonds called for redemption. The place of redemption may be determined by the Town. Interest on the Refunding Bonds called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are

available at the place of redemption to pay the redemption price on the date so named, and thereafter, such bonds shall no longer be protected by the Ordinance and shall not be deemed to be outstanding thereunder.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the Town may deposit in trust with the Paying Agent, an amount sufficient to pay such Refunding Bond or the redemption price, as the case may be, and thereafter the Registered Owner shall look only to the funds so deposited in trust for payment and the Town shall have no further obligation or liability with respect thereto.

This bond is transferable or exchangeable only upon the books of the Town kept for that purpose at the designated corporate trust operations office of the Registrar by the Registered Owner in person, or by his attorney duly authorized in writing, upon surrender of this Refunding Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the Registered Owner, or his attorney duly authorized in writing, and thereupon a new fully registered Refunding Bond or Refunding Bonds in the same aggregate principal amount and of the same maturity shall be executed and delivered in the name of the transferee or to the Registered Owner, as the case may be, in exchange therefor. This bond may be transferred without cost to the Registered Owner except for any tax or governmental charge required to be paid with respect to the transfer. The Town, the Registrar and the Paying Agent may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes, including for the purpose of receiving payment of, or on account of, the principal hereof and interest and premium, if any, due hereon.

This bond is subject to defeasance prior to redemption or payment as provided in the Ordinance referred to herein. THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. The Ordinance may be amended without the consent of the owners of the Bonds as provided in the Ordinance if the Town Council determines, in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the Bonds.

The Refunding Bonds are issuable only in fully registered form in the denomination of [(i) Five Thousand Dollars (\$5,000) or any integral multiple thereof, or (ii) if sold through a private placement, in denominations of One Hundred Thousand Dollars (\$100,000), plus any integral multiple of Five Thousand Dollars (\$5,000) in excess thereof.]

[A Continuing Disclosure Agreement from the Town to each registered owner or holder of any Refunding Bond, dated as of the date of initial issuance of the Refunding Bonds (the "Agreement"), has been executed by the Town, a copy of which is available from the Town and the terms of which are incorporated herein by this reference. The Agreement contains certain promises of the Town to each registered owner or holder of any Refunding Bond, including a promise to provide certain continuing disclosure. By its payment for and acceptance of this bond, the registered owner or holder of this bond assents to the Agreement and to the exchange of such payment and acceptance for such promises.]

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the Town of Sellersburg, in Clark County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of the Town Council President, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk-Treasurer.

TOWN OF SELLERSBURG, INDIANA

Town Council President

(Seal)

ATTEST:

Clerk-Treasurer

CERTIFICATE OF AUTHENTICATION

This bond is one of the Refunding Bonds issued and delivered pursuant to the provisions of the within-mentioned Ordinance.

[_____]

By _____
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (insert name and address) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within bond on the books kept for the registration thereof with full power of substitution in the premises.
Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guarantee:

NOTICE: Signature(s) must be guaranteed by a broker-dealer or a commercial bank or trust company.

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