

CITY OF COCOA, FLORIDA

**COMPOSITE FORM OF
MASTER RESOLUTION NO. 93-27**

Adopted August 18, 1993

(As Amended by Resolution No. 97-23, adopted on April 22, 1997;

As Amended by Resolution No. 98-2, adopted on January 13, 1998;

As Amended by Resolution No. 2007-44, adopted on May 8, 2007;

As Amended by Resolution No. 2009-104, adopted on September 8, 2009;

As Amended by Resolution No. 2009-105, adopted on September 8, 2009;

As Amended by Resolution No. 2018-059, adopted on August 14, 2018)

[Exhibit A Omitted]

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RESOLUTION NO. 93-27

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$12,610,000 CITY OF COCOA, FLORIDA WATER AND SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1993A, AND \$28,035,000 CITY OF COCOA, FLORIDA WATER AND SEWER SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 1993B (COLLECTIVELY, THE "SERIES 1993 BONDS"), FOR THE PURPOSE OF PAYING AT THEIR MATURITY AND REDEEMING PRIOR TO THEIR MATURITY OUTSTANDING WATER AND SEWER REFUNDING REVENUE BONDS, SERIES 1986, HERETOFORE ISSUED BY THE CITY, PROVIDING FUNDS FOR THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO AND EXTENSIONS OF THE CITY'S WATER AND SEWER SYSTEM, AND REIMBURSING THE CITY FOR CERTAIN CAPITAL EXPENDITURES PREVIOUSLY MADE IN CONNECTION WITH THE WATER AND SEWER SYSTEMS; PROVIDING FOR THE ISSUANCE OF ADDITIONAL WATER AND SEWER SYSTEM REVENUE BONDS TO PAY ALL OR PART OF THE COST OF IMPROVEMENTS TO AND EXTENSIONS OF THE CITY'S WATER AND SEWER SYSTEM OR FOR THE PURPOSE OF REFUNDING OUTSTANDING WATER AND SEWER SYSTEM REVENUE BONDS; PROVIDING FOR THE PAYMENT OF THE SERIES 1993 BONDS AND THE INTEREST THEREON FROM NET REVENUES OF THE CITY'S WATER AND SEWER SYSTEM, PLEDGED IMPACT FEES, AND CERTAIN OTHER AVAILABLE REVENUES SPECIFIED HEREIN; GRANTING A PLEDGE OF AND CREATING A LIEN ON SUCH NET REVENUES, PLEDGED IMPACT FEES, AND OTHER REVENUES IN FAVOR OF THE HOLDERS OF THE SERIES 1993 BONDS; SETTING FORTH THE RIGHTS AND REMEDIES OF THE HOLDERS OF THE 1993 BONDS; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR VARIOUS OTHER MATTERS RELATING TO SUCH BONDS.

WHEREAS, the City of Cocoa, Florida (the "City") has heretofore issued and there are now outstanding the Prior Bonds (hereafter defined); and

WHEREAS, the City Council of the City (the "City Council") has determined that it is desirable at this time to provide for the payment of the Prior Bonds; and

WHEREAS, the City Council has determined that it is necessary and desirable to acquire and construct certain improvements to, and extensions of, the Water and Sewer System (hereafter defined); and

WHEREAS, the City Council has determined that it is necessary and desirable for the City to reimburse itself for Reimbursable Expenditures (hereafter defined) previously made in connection with the Water and Sewer System; and

WHEREAS, under the authority granted by the Constitution and laws of the State of Florida, the City is authorized to issue water and sewer system refunding bonds and water and sewer system improvement revenue bonds for the purposes described above and to pledge for the payment of such bonds the Net Revenues (hereafter defined), the Pledged Impact Fees (hereafter defined), and certain other available revenues described more fully herein; and

WHEREAS, the City Council has determined at this time to issue \$12,610,000 Water and Sewer System Refunding Revenue Bonds, Series 1993A, of the City, and \$28,035,000 Water and Sewer System Improvement Revenue Bonds, Series 1993B, of the City, for the purposes described above, such bonds to be secured as provided herein and in the resolution of the City providing for the issuance of such bonds; and

WHEREAS, this Resolution is adopted pursuant to Chapter 166, Part II, Florida Statutes, and other applicable provisions of law;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA:

ARTICLE I

Definitions

Section 101. Meaning of Words and Terms. The following words and terms used in this Resolution shall have the following meanings:

"Accountant" shall mean the firm of certified public accountants employed by the City to perform and carry out the duties imposed on the Accountant by this Resolution.

"Accounts" shall mean collectively the accounts created pursuant to Section 502 below. Such term shall not include the Rebate Account.

"Accreted Value" shall mean, with respect to each Compound Interest Bond, if any, the amount thereof on a particular date determined by reference to a table of accreted values (and linear interpolations therefrom) attached as a schedule to a Subsequent Resolution.

"Additional Bonds" shall mean Bonds issued under Section 208 below.

"AMBAC" means AMBAC Indemnity Corporation, a Wisconsin-domiciled stock insurance company, which is the Insurer of the Series 1993 Bonds, or any entity that succeeds to the rights and obligations of AMBAC Indemnity Corporation under the Insurance Policy issued by AMBAC Indemnity Corporation with respect to the Series 1993 Bonds. All references in this Resolution to AMBAC shall be deemed to be deleted at such time as there are no Bonds Outstanding with respect to which AMBAC has issued an Insurance Policy.

"Amortization Installments" shall mean the moneys required to be deposited in the Redemption Account for the purpose of redeeming and paying when due any Term Bonds, the specific amounts and times of such deposits to be as set forth in a Subsequent Resolution relating to any Series of Bonds.

"Balloon Indebtedness" means Bonds, 20% or more of the principal payments of which are due in a single year, which portion of the principal is not required by the Subsequent Resolution pursuant to which such Bonds are issued to be amortized by redemption prior to such date.

"Bond Registrar" or "Registrar" shall mean as to the Series 1993 Bonds and any Additional Bonds, the bank or trust company designated as such by a Subsequent Resolution for the purpose of maintaining appropriate records reflecting the names, addresses, and other identifying information of Bondholders.

"Bond Year" shall mean the period commencing on the second day of October in each year and ending on the first day of October of the following year.

"Bondholders" or "Holders" shall mean the registered owners of Bonds.

"Bonds" shall mean collectively the Bonds issued and Outstanding under Article II of this Resolution.

"Business Day" shall mean any day on which the Paying Agent is open for the acceptance of deposits.

"Capital Expenditures" shall mean all expenditures made for extensions, additions, improvements, renewals and replacements (other than ordinary maintenance and repairs) acquired, constructed or installed for the purpose of preserving, extending, increasing or improving the service rendered by the Water and Sewer System or for reducing the cost of operation, and shall include the cost of purchasing and installing such equipment and appurtenances as may be necessary to meet the demands upon the Water and Sewer System. Such term shall also include the acquisition of such lands and rights-of-way and such engineering, legal and administrative expenses as may be required in connection with the foregoing.

"Chief Financial Officer" shall mean the chief financial officer of the City, as defined by Section 218.403, Florida Statutes (1991), or the corresponding provision of subsequent laws.

"**City**" shall mean the City of Cocoa, Florida.

"**City Attorney**" shall mean the city attorney of the City or his or her designee or the officers succeeding to his or her principal functions.

"**City Clerk**" shall mean the City Clerk of the City or the person that succeeds to his or her principal functions.

"**City Council**" shall mean the city council of the City or the successor board or body in which the general legislative powers of the City shall be vested at any time in the future.

"**Cocoa Wholesale Water Supply System**" shall mean all water production, treatment and transmission facilities, including improvements, extensions and additions thereto, together with all property and contractual rights relating thereto, which shall constitute such System, if established in accordance with Section 819 hereof.

"**Code**" shall mean the Internal Revenue Code of 1986, as amended.

"**Compound Interest Bonds**" shall mean those Bonds, if any, the interest on which is not payable in periodic installments but that is instead payable only in a lump sum at the maturity or earlier redemption of such Bonds, in such original principal amounts and maturing on such dates and at such Maturity Values as shall be set forth in a Subsequent Resolution.

"**Construction Fund**" shall mean the Water and Sewer System Construction Fund created pursuant to Section 401 below.

"**Consultant**" means an individual, firm or firms which is a professional management consultant, engineer, rate consultant, financial advisor, investment banking firm, accountant or accounting firm or insurance consultant, as appropriate, of Florida and/or national repute for having the skill and experience necessary to render the particular report required by the provision hereof in which such requirement appears.

"**Consulting Engineers**" shall mean the engineers or engineering firms or corporations at any time employed by the City pursuant to Section 815 below to perform and carry out the duties imposed on the consulting engineers by this Resolution.

"**Cost**," as applied to any Improvements, shall embrace the cost of acquisition, construction and installation, and all obligations and expenses and all items of cost related thereto, including those costs which are set forth in Section 403 below.

"**Cost of Operation and Maintenance**" shall mean the City's current expenses of maintenance, repair and operation of the Water and Sewer System and shall include, without limiting the generality of the foregoing, all ordinary and usual expenses of maintenance and repair, which may include expenses not annually recurring, insurance premiums, engineering expenses relating to maintenance, repair and operation, fees and expenses of the Paying Agent,

legal expenses, any taxes which may be lawfully imposed on the Water and Sewer System or its income or operations and reserves for such taxes, and any other expenses required to be paid by the City in order to properly operate and maintain the Water and Sewer System, all in accordance with applicable laws and generally accepted accounting principles applicable to governmental entities, but such term shall not include any extraordinary maintenance or repair, any interfund administrative charges, any contributions of Revenues or other amounts derived by the City from ownership or operation of the Water and Sewer System to the City's general fund, any allowance for depreciation, or any reserve for renewal and replacements. Operating expenses of the Water System and the Cocoa Wholesale Water Supply System may be shared by, or allocated between, such Systems on a Fair Market Value Basis.

"Current Interest Paying Bonds" shall mean those Bonds, if any, the interest on which is payable in daily, weekly, monthly, semi-annual, annual, or other periodic installments, in such principal amounts and maturing on such dates and in such amounts as shall be set forth in a Subsequent Resolution.

"Debt Service" shall mean collectively the principal, Accreted Value, Maturity Amount, interest, and redemption premium, if any, payable at any given time with respect to a Series of Bonds.

"Debt Service Fund" shall mean the fund so designated in, and created pursuant to, Section 502 below.

"Depository" shall mean any bank or trust company duly authorized by law to engage in the banking business and designated by the Chief Financial Officer as a depository of moneys under the provisions of this Resolution.

"Escrow Agent" shall mean one or more banks or trust companies, either within or without the State of Florida, designated as escrow agent or trustee in the Escrow Deposit Agreement, and performing such functions as are required by such Agreement.

"Escrow Deposit Agreement" shall mean the Escrow Deposit Agreement or Agreements between the City and the Escrow Agent, pursuant to which a portion of the proceeds of the Series 1993A Bonds shall be held, invested and applied by the Escrow Agent as provided in this Resolution and the Escrow Deposit Agreement.

"Expansion Percentage" shall mean the sum of the Water Expansion Percentage and the Sewer Expansion Percentage collectively.

"Fair Market Value Basis" shall mean an allocation of the fair market value of fees, costs and expenses based upon actual usage and applied as if in an arm's-length transaction, including, without limitation, (i) expenditures for tools, appliances, material and supplies, service contracts and all salaries of personnel, including all employees providing direct management, facilities management, maintenance, marketing and technical support and (ii) and an allocation for all indirect costs and overhead expenses including, but not limited to, payroll taxes, workers

compensation insurance, liability and casualty insurance premiums, utilities, transportation costs, depreciation and amortization expense and professional and consultant fees and expenses. Any good faith effort by the City to determine the Fair Market Value of such fees, costs and expenses shall be conclusive and binding upon the Holders of the Bonds and any Insurer.

"Fiscal Year" shall mean the period commencing on the first day of October of any year and ending on the last day of September of the following year, as the same may be amended from time to time to conform to the fiscal year of the City then in effect.

"Funds" shall mean collectively the funds created pursuant to Sections 401, 501, and 502 below.

"General Account" shall mean the account in the Surplus Fund so designated in, and created pursuant to, Section 502 below.

"Government Obligations" shall mean direct general obligations of the United States of America and obligations the principal of and interest on which are fully guaranteed by the United States of America, none of which permit redemption prior to maturity at the option of the obligor. The term "Government Obligations" shall include any certificates or any other evidences of an ownership interest in the aforementioned obligations or in specified portions thereof (which may consist of specified portions of the interest thereon).

"Impact Fees" shall mean collectively the Water Impact Fees and the Sewer Impact Fees.

"Improvements" shall mean such improvements to and renewals and replacements of the Water and Sewer System or any part thereof and such extensions and additions thereto as may be necessary or desirable, in the judgment of the City, to keep the same in proper condition for the safe, efficient and economic operation thereof and to integrate into the Water and Sewer System any unit or part thereof, and shall include such land, structures and facilities as may be authorized to be acquired or constructed by the City under the provisions of Florida law and such improvements, renewals and replacements of such land, structures and facilities of the Water and Sewer System and such extensions and additions thereto as may be necessary or desirable for continuous and efficient service to the public. A brief description of the Improvements to be financed, in whole or in part, with the proceeds derived from the sale of any Series of Bonds shall be included in, or attached to, the initial Resolution, or any Subsequent Resolution, relating to such Series of Bonds and shall be filed with the City Clerk.

"Insurance Policy" shall mean the policy of bond insurance, letter of credit, guarantee, or other similar form of credit enhancement issued by an Insurer and insuring or guaranteeing the payment when due of all or any portion of the principal of and interest on the Bonds of any Series.

"Insurer" shall mean the issuer of any Insurance Policy or any successor corporation that assumes the obligations of any such issuer. All references in this Resolution to the Insurer shall be deemed to be deleted at such time as there are no Bonds of a Series Outstanding with respect to which the Insurer has issued an Insurance Policy.

"Interest Account" shall mean the account in the Debt Service Fund so designated in, and created pursuant to, Section 502 below.

"Investment Obligations" shall mean any of the following, if and to the extent that the same are at the time legal for investment of funds of the City:

(1) Obligations of any of the following federal agencies which obligations represent full faith and credit of the United States of America, including:

- Export – Import Bank
- Farmers Home Administration
- General Services Administration
- U.S. Maritime Administration
- Small Business Administration
- Government National Mortgage Association (GNMA)
- U.S. Department of Housing & Urban Development (PHA's)
- Federal Housing Administration;

(2) Bonds, notes or other evidences of indebtedness rated "AAA" by Standard & Poor's Corporation and "Aaa" by Moody's issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

(3) U.S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's and "P-1" by Moody's and maturing no more than 360 days after the date of purchase (ratings on holding companies are not considered the rating of the bank);

(4) Commercial paper which is rated at the time of purchase in the single highest classification, "A-1 +" by Standard & Poor's and "P-1" by Moody's and which matures not more than 270 day after the date of purchase;

(5) Investments in a money market fund rated "AAAm" or "AAAm-G" or better by Standard & Poor's Corporation;

(6) Pre-refunded municipal obligations defined as follows: Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to

maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on the escrow, in the highest rating category of Standard & Poor's Corporation and Moody's or any successors thereto; or (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or obligations described in paragraph (1) above, which fund may be applied only to the payment or such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which fund is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(7) Units of participation in the Local Government Surplus Funds Trust Fund established pursuant to Part IV, Chapter 218, Florida Statutes, or any similar common trust fund which is established pursuant to law as a legal depository of public moneys and for which the City Council of Administration of the State of Florida acts as custodian;

(8) Government Obligations;

(9) Investment agreements approved by AMBAC with notice by the City to S&P and Moody's; and

(10) Other forms of investments approved in writing by each Insurer with notice to S&P and Moody's.

"Maturity Amount" shall mean the aggregate amount of principal and interest payable at the maturity of a Compound Interest Bond.

"Maximum Principal and Interest Requirement" means, as of any particular date of calculation, the largest Principal and Interest Requirement for the then-current or any remaining Bond Year.

"Mayor" shall mean the Mayor of the City or his designee or the officer succeeding to his or her principal functions.

"Moody's" shall mean Moody's Investors Service, New York, New York.

"Net Revenues" for any particular period shall mean the excess of the Revenues for such period over the Cost of Operation and Maintenance for such period.

"1965 Bonds" shall mean the City's \$1,375,000 (Sewer) Refunding Revenue Bonds, Series 1965.

"1968 Bonds" shall mean the City's \$9,700,000 Water Revenue Improvement Bonds, Series 1968.

"1993 Improvements" shall mean those Improvements described in Exhibit A hereto, as the same may be amended, supplemented, or otherwise changed from time to time by the City in writing filed with the City Clerk.

"Operation and Maintenance Fund" shall mean the Fund so designated in, and created pursuant to, Section 502 below.

"Ordinance" shall mean collectively (i) Ordinance No. 26-84 enacted by the City Council on September 25, 1984, as amended and supplemented at any time thereafter, whether before or after the date on which this Resolution is adopted, or as the same may be superseded by ordinance or resolution at any time in the future, pursuant to which the City has imposed and will continue to impose the Sewer Impact Fees, and (ii) Resolution No 91-14 adopted by the City Council on September 21, 1991, as amended and supplemented at any time thereafter, whether before or after the date on which this Resolution is adopted, or as the same may be superseded by ordinance or resolution at any time in the future, pursuant to which the City has imposed and will continue to impose the Water Impact Fees.

"Outstanding" shall mean, when used with respect to the Bonds, all Bonds theretofore issued, authenticated, and delivered except:

- (a) Bonds paid and canceled; and
- (b) Bonds deemed to have been paid in accordance with Section 303 or Section 1201 of this Resolution.

"Paying Agent" shall mean, as to the Series 1993 Bonds and any Additional Bonds, the bank or trust company designated by a Subsequent Resolution as the place where Debt Service shall be payable and which accepts the duties of Paying Agent under this Resolution or any Subsequent Resolution.

"Pledged Impact Fee Accounts" shall mean collectively the Pledged Sewer Impact Fee Account and the Pledged Water Impact Fee Account.

"Pledged Impact Fees" shall mean, collectively, the Sewer Impact Fees on deposit from time to time in the Pledged Sewer Impact Fee Account and the Water Impact Fees on deposit from time to time in the Pledged Water Impact Fee Account.

"Pledged Revenues" means the Net Revenues, the Pledged Impact Fees, and all other amounts on deposit from time to time in the Funds and Accounts until such amounts are applied in the manner authorized by this Resolution except that the term "Pledged Revenues" shall not include amounts on deposit from time to time in the Operation and Maintenance Fund, the Rebate Account, and the Unpledged Impact Fee Accounts.

"Pledged Sewer Impact Fee Account" shall mean the account in the Sewer Impact Fee Fund so designated in, and created pursuant to, Section 502 below.

"Pledged Water Impact Fee Account" shall mean the account in the Water Impact Fee Fund so designated in, and created pursuant to, Section 502 below.

"Principal Account" shall mean the account in the Debt Service Fund so designated in, and created pursuant to, Section 502 below.

"Principal and Interest Requirement" for a given Bond Year shall mean the respective amounts which, after subtracting accrued interest from the date of any Series of Bonds to the date of initial delivery of such Series of Bonds, after subtracting any interest subsidy payments or tax credit payments actually received from the federal government with respect to such Bond Year with respect to taxable tax-credit or interest subsidy Bonds issued or to be issued by the City, and after subtracting capitalized interest, in each case to the extent that such interest is deposited to the credit of the Interest Account for such Bond Year, are required in each Bond Year to provide:

- (a) for paying the interest on all Bonds then Outstanding which is payable in such Bond Year;
- (b) for paying the principal or Maturity Amount of all Serial Bonds then Outstanding which is payable in such Bond Year; and
- (c) the Amortization Installments, if any, for all Term Bonds then Outstanding for such Bond Year.

provided, however, that for purposes of determining the Principal and Interest Requirement with respect to Variable Rate Bonds, the interest rate shall be assumed to be the greater of (i) the interest rate reflected in The Bond Buyer "20 Bond index" published immediately before the date as of which the Principal and Interest Requirement is being determined, or (ii) 110% of the most recent average annual interest rate on outstanding Variable Rate Bonds, if any.

If Bonds are payable at the option of the Holder, the "put" date or dates shall be ignored and the stated maturity dates thereof shall be used for purposes of calculating the Principal and Interest Requirement.

For purposes of determining the Principal and Interest Requirement with respect to Balloon Indebtedness, the City may elect, such election to be evidenced by a certificate of the Chief Financial Officer filed with the City Clerk, to treat the amount of principal which would be payable in such Bond Year as the amount of principal that would have been amortized had the Balloon Indebtedness been issued from the date of incurrence and amortized on a level debt service basis over a period of not to exceed the lesser of (i) thirty (30) years or (ii) the average useful life of the assets being financed calculated from the respective placed in service date.

"Prior Bonds" shall mean the \$15,950,000 City of Cocoa, Florida Water and Sewer Revenue Bonds, Series 1986, dated August 1, 1986, \$12,045,000 principal amount of which will be outstanding on the date on which the Series 1993 Bonds are issued.

"Rate of Return Factor" shall be an amount equal to six percent (6%) of the total of the original cost of the Water and Sewer System fixed assets to include land, buildings, improvements other than buildings, and machinery and equipment less (i) accumulated depreciation on those fixed assets as determined by City's Chief Financial Officer based upon the audit of the immediately preceding Fiscal Year and (ii) the cost of capital fixed assets contributed to the City by other parties less the accumulated depreciation on those contributed assets as determined by the City's Chief Financial Officer. The Rate of Return Factor may be adjusted from time to time by the adoption of a resolution by super majority vote of the City Council.

"Rebate Amount" shall mean the account so designated in, and created pursuant to, Article VII below.

"Rebate Amount" shall mean the amount, if any, required to be rebated to the United States pursuant to Section 148(f) of the Code.

"Rebate Income Subaccount" shall mean the subaccount so designated in, and created pursuant to, Article VII below.

"Rebate Principal Subaccount" shall mean the subaccount so designated in, and created pursuant to, Article VII below.

"Record Date" shall mean a date fifteen calendar days before any date on which interest on the Bonds is payable.

"Redemption Account" shall mean the account in the Debt Service Fund so designated in, and created pursuant to, Section 502 below.

"Reimbursable Expenditures" shall mean those costs and expenditures described in Exhibit A to Resolution No. 92-23 adopted by the City Council on July 28, 1992.

"Renewal and Replacement Fund" shall mean the fund so designated in, and created pursuant to, Section 502 below.

"Renewal and Replacement Fund Requirement" shall mean \$2,750,000; provided, however, that such amount may be increased or decreased from time to time to such amount as the Consulting Engineers shall certify in writing to the Issuer as being necessary for the purposes of the Renewal and Replacement Fund and the amount as so increased or decreased shall thereafter constitute the Renewal and Replacement Fund Requirement until the same shall again be so increased or decreased.

"Reserve Fund" shall mean the Debt Service Reserve Fund so designated in, and created pursuant to, Section 502 below.

"Reserve Fund Credit Facility Indebtedness" shall mean a bond, note, or other evidence of indebtedness issued by the City to the Reserve Policy Issuer in order to evidence the City's obligation to reimburse such Reserve Policy Issuer for any amounts drawn under a Reserve Policy plus interest, if any, on any amounts so drawn.

"Reserve Fund Requirement" shall mean, as of any date of calculation, the amount set forth in the Subsequent Resolution authorizing the issuance of the Series of Bonds.

"Reserve Policy" shall mean a municipal bond debt service reserve fund policy, letter of credit, line of credit, guarantee, or other similar form of credit, deposited in a subaccount of the Reserve Fund for a particular Series of Bonds.

"Reserve Policy Issuer" shall mean any issuer of a Reserve Policy; provided, however, that in order to issue a Reserve Policy the claims paying ability of the issuer thereof must be rated in one of the three highest rating category by Moody's and by S&P.

"Resolution" shall mean this Resolution, as supplemented or amended in the manner provided by Article XI below.

"Restricted Account" shall mean the account in the Surplus Fund so designated in, and created pursuant to, Section 502 below.

"Revenue Fund" shall mean the fund so designated in, and created pursuant to, Section 501 below.

"Revenues" shall mean all moneys, fees, charges and other income, including earnings thereon and connection charges received by the City or accrued to the City in connection with or as a result of its ownership or operation of the Water and Sewer System, including the income derived by the City from the sale of potable water produced, treated or distributed by the City, or from the collection, transmission, treatment or disposal of sewage by the City, sewer improvement charges, or revenues received by the City from the sale of wastewater that has been reclaimed for reuse and any proceeds of use and occupancy insurance on the Water and Sewer System or any part thereof and income from investments made under this Resolution, all as calculated in accordance with generally accepted accounting principles applicable to governmental entities except that Revenues shall not include (i) Impact Fees and investment earnings thereon, (ii) payments on special assessments for utility improvements or interest on such special assessments, (iii) contributions in aid, grants, state or federal matching funds, (iv) income from the investment of amounts on deposit in the Operation and Maintenance Fund, the Unpledged Impact Fee Accounts, and the Rebate Account, or (v) fees, revenues and income relating to the Cocoa Wholesale Water Supply System.

"S&P" shall mean Standard & Poor's Corporation, New York, New York.

"Serial Bonds" shall mean Bonds (other than Term Bonds) of a series that mature in annual or semiannual installments.

"Series" shall mean the Bonds delivered at any one time under Section 207 or Section 208 of this Resolution.

"Series 1993A Bonds" shall mean the Bonds so designated in Section 207 of this Resolution.

"Series 1993B Bonds" shall mean the Bonds so designated in Section 207 of this Resolution.

"Series 1993 Bonds" shall mean collectively the Series 1993A Bonds and the Series 1993B Bonds.

"Series 1993 Serial Bonds" shall mean Series 1993 Bonds that are Serial Bonds.

"Series 1993 Term Bonds" shall mean Series 1993 Bonds that are Term Bonds.

"Sewer Expansion Percentage" shall mean a fraction, the numerator of which is that portion of (i) in the case of the Series 1993A Bonds, the net spendable proceeds (original principal amount less original issue discount, if any, less issuance expenses including underwriters discount, and less proceeds deposited to the credit of a debt service reserve fund) of the 1965 Bonds and the 1968 Bonds, and (ii) in the case of the Series 1993B Bonds, the net spendable proceeds (original principal amount less original issue discount, if any, less issuance expenses including underwriters discount, and less proceeds deposited to the credit of the Reserve Fund, or (iii) in the case of Additional Bonds, the net spendable proceed (original principal amount less original issue discount, if any, less issuance expenses including underwriters discount, and less proceeds deposited to the credit of the Reserve Fund) of Additional Bond and Bonds, if any, refunded with the proceeds of such Additional Bonds, in each case that has been allocated to Sewer Expansion Projects by certificate of the City or the Consulting Engineers at the time of issuance of the Series 1993 Bonds or Additional Bonds, as the case may be, and the denominator of which is the portion of the net proceeds of the 1965 Bonds and the 1968 Bonds that were (or are to be, in the case of the Series 1993B Bonds and Additional Bonds) applied to pay the cost of (i) Sewer Expansion Projects, plus (ii) any other Improvements or portions thereof relating to the Sewer System that did not constitute Sewer Expansion Projects.

"Sewer Expansion Projects" shall mean Improvements or portions thereof for the oversizing, expanding, or constructing of additions to or extensions of the City's Sewer System to the extent such Improvements are designed to expand the capacity of the Sewer System and, to the extent they provided capacity for future customers, similar Improvements or portions thereof which were funded with a portion of the proceeds of the 1965 Bonds and the 1968 Bonds.

"Sewer Impact Fee Debt Service Component" shall mean an amount determined by multiplying the total Debt Service that is due and payable in each Bond Year with respect to each

Series of Bonds by the Sewer Expansion Percentage for that Series of Bonds except that the Series 1993A Bonds and the 1993B Bonds shall be treated as a single Series of Bonds for this purpose.

"Sewer Impact Fee Fund" shall mean the fund so designated in, and created pursuant to, Section 502 below.

"Sewer Impact Fees" shall mean the sewer impact fees now described in the Ordinance and all other non refundable (except at the option of the City) capital expansion fees, system improvement fees, and other similar fees and charges separately imposed by the City as a capacity, connection, or impact fee or charge for the proportionate share of the cost of expanding, oversizing, separating, or constructing new additions to the Sewer System.

"Sewer System" shall mean that portion of the Water and Sewer System used for the collection, transmission, treatment, and disposal of sewage that is now owned, operated and maintained by the City, including any effluent reuse facilities of the City, together with any improvements and additions thereto, or extensions thereof, hereafter constructed or acquired by the City.

"Subsequent Resolution" shall mean any resolution relating to any Series of Bonds adopted by the City Council before delivery of such Series of Bonds to their initial purchasers.

"Surplus Fund" shall mean the fund so designated in, and created pursuant to, Section 502 below.

"Taxable Bond" shall mean Bonds described in the last sentence of Section 818 below.

"Term Bonds" shall mean Bonds of a Series that mature on one date and that are subject to mandatory redemption from Amortization Installments.

"Unpledged Impact Fee Account" shall mean, collectively, the Unpledged Sewer Impact Fee Account and the Unpledged Water Impact Fee Account.

"Unpledged Sewer Impact Fee Account" shall mean the account in the Sewer Impact Fee Fund designated in, and created pursuant to, Section 502 below.

"Unpledged Water Impact Fee Account" shall mean the account in the Water Impact Fee Fund designated in, and created pursuant to, Section 502 below.

"Utility Revenue Sufficiency Analysis" is an annual report prepared by the City's Consultant consisting of a multi-year financial plan for the Water and Sewer System that will determine the level of annual revenue required to satisfy the short and long term financial needs and requirements of the Water and Sewer System.

"Valuation Deficiency" shall mean, as of any date on which investments deposited to the credit of the Reserve Fund are valued pursuant to Section 604 below, the difference, if any,

between the Reserve Fund Requirement and the amount then on deposit in the Reserve Fund but only to the extent that such difference results solely from the valuation of such investments and not as a result of withdrawals from the Reserve Fund or failure to deposit in the Reserve Fund, from the proceeds of any Bonds or a Reserve Policy, an amount equal to the Reserve Fund Requirement for that Series of Bonds.

"Variable Rate Bonds" shall mean Bonds issued with a variable, convertible, or other similar stated rate which is not fixed in percentage at the date of issue for the entire term thereof.

"Water and Sewer System" shall mean collectively the Sewer System and the Water System.

"Water Expansion Percentage" shall mean a fraction, the numerator of which is that portion of (i) in the case of the Series 1993A Bonds, the net proceeds (original principal amount less original issue discount, if any, less issuance expenses including underwriters discount, and less proceeds deposited to the credit of a debt service reserve fund) of the 1965 Bonds and the 1968 Bonds, and (ii) in the case of the Series 1993B Bonds, the net spendable proceeds (original principal amount less original issue discount, if any, less issuance expenses including underwriters discount, and less proceeds deposited to the credit of the Reserve Fund, or (iii) in the case of Additional Bonds, the net spendable proceeds original principal amount less original issue discount, if any, less issuance expenses including underwriters discount, and less proceeds deposited to the credit of the Reserve Fund) of Additional Bonds and Bonds, if any, refunded with the proceeds of such Additional Bonds, in each case that has been allocated to Water Expansion Projects by certificate of the City or the Consulting Engineers at the time of issuance of the Series 1993 Bonds or Additional Bonds, as the case may be, and the denominator of which is the portion of the net proceeds of the 1965 Bonds and the 1968 Bonds or Additional Bonds that were (or are to be, in the case of the Series 1993B Bonds and Additional Bonds) applied to pay the cost of (i) Water Expansion Projects, plus (ii) any other Improvements or portions thereof relating to the Water System that did not constitute Water Expansion Projects.

"Water Expansion Projects" shall mean Improvements or portions thereof for the oversizing, expanding, or constructing additions to or extensions of the City's Water System to the extent such improvements are designed to expand the capacity of the Water System and, to the extent they provided capacity for future customers, similar capital improvement projects or portions thereof which were funded with a portion of the proceeds of the 1965 Bonds and the 1968 Bonds.

"Water Impact Fee Debt Service Component" shall mean an amount determined by multiplying the total Debt Service that is due and payable in each Bond Year with respect to each Series of Bonds by the Water Expansion Percentage for that Series of Bonds except that the Series 1993A Bonds and the Series 1993B Bonds shall be treated as a single Series of Bonds for this purpose.

"Water Impact Fee Fund" shall mean the fund so designated in, and created pursuant to, Section 502 below.

"Water Impact Fees" shall mean the water impact fees now described in the Ordinance and all other nonrefundable (except at the option of the City) capital expansion fees, system improvement fees, and other similar fees and charges separately imposed by the City as a capacity, connection, or impact fee or charge for the proportionate share of the cost of expanding, oversizing, separating, or constructing additions to the Water System.

"Water System" shall mean that portion of the Water and Sewer System used to supply potable water that is now owned, operated and maintained by the City, together with any improvements and additions thereto, or extensions thereof, hereafter constructed or acquired by the City; provided, however, Water System shall not include any property or facilities (or portions thereof) designated by the City as part of the Cocoa Wholesale Water Supply System if established pursuant to Section 819 hereof. The Water System and the Cocoa Wholesale Water Supply System may share assets, facilities and property in accordance with Article VIII of this Resolution.

"Working Capital Reserve Amount" shall mean the amount sufficient to fund the City's Water and Sewer System operating reserves, as determined from time to time by the City, cash funded capital expenditures, carry forward amounts for cash funded projects not completed in the prior Fiscal Year and savings accumulated for future capital requirements as determined annually by the City based on the Utility Revenue Sufficiency Analysis.

Section 102. Rules of Construction. Words of the masculine gender shall be deemed construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, singular words shall include the plural as well as the singular number and the word "person" shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

ARTICLE II

Form, Execution, Delivery and Designation of Bonds

Section 201. Issuance of Bonds. For the purpose of providing funds for paying the principal of and interest and redemption premiums, if any on the Prior Bonds and any other Bonds that may from time to time be Outstanding, and paying all or part of the cost of any Improvements, Bonds may be issued under this Resolution, subject to the conditions hereinafter provided in Sections 207 and 208, respectively, of this Article. Debt Service shall be payable solely from the Pledged Revenues and all of the provisions of this Resolution shall be for the benefit and security of the present and future Holders of the Bonds so issued, without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter provided, of any one Bond over any other Bond.

Section 202. Details of Bonds. The Bonds of each Series issued under this Resolution shall be in such denominations, numbered consecutively, shall bear interest from their date until

their payment at rates (which may include variable, adjustable, convertible, or other rates, original issue discounts, and zero interest rates) not exceeding the maximum rate then permitted by law, such interest to the respective maturities of the Bonds being payable semi-annually on the first days of April and October in each Bond Year as may be provided by Subsequent Resolution (but, if any such date in any Bond Year is not a Business Day, then on the first Business Day thereafter without the payment of additional interest), shall be dated, shall be stated to mature either on April 1 or October 1 or solely on October 1 in such year or years, and shall be subject to redemption prior to their respective maturities, all as hereinafter provided and as provided in any Subsequent Resolution. The Series 1993 Bonds shall be designated as provided in Section 207 below and the Bonds of each other Series shall be designated as provided in a Subsequent Resolution relating to such Series.

Debt Service shall be payable in any coin or currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of public and private debts. Interest on Current Interest Paying Bonds shall be paid by check or draft mailed to the registered owner at his address shown as of the Record Date on the books of registration maintained by the Bond Registrar. The principal of Current Interest Paying Bonds, and the Accreted Value or Maturity Amount of Compound Interest Bonds, shall be payable upon the presentation and surrender thereof as the same falls due at the principal office of the Bond Registrar.

Notwithstanding the foregoing, a registered owner of \$1,000,000 or more in principal amount of Current Interest Paying Bonds of any Series or \$1,000,000 or more in original principal amount of Compound Interest Bonds of any Series may provide for payment of interest by wire transfer in immediately available funds on the applicable principal or interest payment date by written request submitted to the Paying Agent for such Series of Bonds, at least fifteen calendar days before the applicable Record Date, specifying the account number, address and other relevant information of such registered owner. The notice may provide that it will remain in effect for subsequent interest payments until changed or revoked by another written notice.

Section 203. Execution and Form of Bonds. The Bonds shall be signed by, or bear the facsimile signature of, the Mayor and the City Clerk, and the certificate of authentication appearing on the face of the Bonds shall be signed by, or bear the facsimile signature of, the Bond Registrar; provided, however, that each Bond shall be manually signed by at least one of the foregoing. The official seal of the City, or a facsimile thereof, shall be imprinted on the Bonds. In case any officer whose signature or a facsimile of whose signature appears on any Bond shall cease to be such officer before the delivery of such Bond, such signature or such facsimile shall nevertheless be valid for all purposes the same as if he or she had remained in office until such delivery. Any Bond may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such Bond shall be proper officers to execute such Bond although at the date of such Bond such persons may not have been such officers. The Bonds of each Series, and the provisions for registration and reconversion to be endorsed on such Bonds, shall be substantially in the form set forth in a Subsequent Resolution relating to each Series of Bonds.

Section 204. Negotiability, Registration and Transfer of Bonds. The City shall cause books for the registration and for the transfer of the Bonds to be kept by the Bond Registrar. All Bonds shall be registered as to both principal and interest. Any Bond may be transferred only upon an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, such transfer to be made on the Bond register maintained by the Bond Registrar and endorsed on the Bond by the Bond Registrar. No charge shall be made to any Bondholder for registration and transfer as hereinabove provided but any Bondholder requesting any such registration or transfer shall pay any tax or other governmental charge required to be paid with respect thereto. The Bond Registrar shall not be required to transfer any Bond during the period of fifteen (15) days next preceding any interest payment date of such Bond nor after such Bond has been selected for redemption, except that if any Insurer has made a payment of principal or Accreted Value with respect to any Bonds, such Bonds may be registered in the name of such Insurer at any time.

Section 205. Ownership of Bonds. Except as provided in Sections 911, 1103, and 1104 below, as to any Bond the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of Debt Service shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid. The City, the Bond Registrar and the Paying Agent may deem and treat the registered owner of any Bond as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment thereof and for all other purposes whatsoever, and neither the City, the Bond Registrar nor the Paying Agent shall be affected by any notice to the contrary. The City may, by Subsequent Resolution, make such provisions for the registration and ownership of any Series of Bonds in "book-entry" form as it deems desirable.

Section 206. Special Obligations. Neither the Bonds nor the interest and premium, if any, payable thereon shall constitute a general obligation or general indebtedness of the City within the meaning of the Constitution and laws of Florida. The Bonds and the interest and premium, if any, payable thereon do not constitute a pledge of the full faith and credit of the City or a lien upon any property of the City other than as provided herein or in a Subsequent Resolution. Neither the Insurer nor any Bondholder nor any other person shall ever have the right to compel the exercise of any taxing power of the City or any other public authority or governmental body to pay the Bonds or the interest and premium, if any, thereon or to pay any other amounts required to be paid pursuant to this Resolution or any Subsequent Resolution. Instead, the Bonds and the interest and premium, if any, thereon and any other amounts required to be paid pursuant to this Resolution or any Subsequent Resolution shall be payable solely from, and shall be secured solely by, the Pledged Revenues as provided herein or in a Subsequent Resolution.

Section 207. Authorization of Series 1993 Bonds. There shall be initially issued at one time, under and secured by this Resolution, Water and Sewer System Refunding Revenue Bonds, Series 1993A, of the City in an aggregate principal amount of \$12,610,000 and Water and Sewer

System Improvement Revenue Bonds, Series 1993B, of the City in an aggregate principal amount of \$28,035,000, for the principal purposes of (i) providing funds, together with other available funds of the City, for paying and redeeming the Prior Bonds as provided in a Subsequent Resolution and in the Escrow Deposit Agreement, together with interest thereon until their payment or redemption, and any redemption premium, (ii) paying the Cost of acquiring and constructing the 1993 Improvements, and (iii) reimbursing the City for the Reimbursable Expenditures.

The Series 1993 Bonds shall be dated, shall be stated to mature on October 1 in such years and amounts, and shall be made redeemable at such times and prices, and shall be subject to optional and mandatory redemption at such times and prices, and shall be subject to option and mandatory redemption at such times and amounts, all as shall be provided in a Subsequent Resolution.

Each of the Series 1993 Bonds shall be deposited with the Chief Financial Officer, who shall cause the Series 1993 Bonds to be registered and delivered to their initial purchasers, but prior to or simultaneously with the delivery of the Series 1993 Bonds there shall be received by the Chief Financial Officer the following:

- (a) a copy, certified by the City Clerk, of this Resolution and each Subsequent Resolution relating to the Series 1993 Bonds;

- (b) an executed counterpart of the Escrow Deposit Agreement;

- (c) an opinion of the City Attorney stating that the signer is of the opinion that this Resolution has been duly adopted by the City Council, that the issuance, sale, and delivery of the Series 1993 Bonds has been duly authorized by the City, and that all conditions to the issuance, sale, and delivery of the Series 1993 Bonds required by the Charter of the City and any ordinances and resolutions adopted by the City Council relating to the issuance of bonds or the incurrence of debt, including this resolution, have been satisfied, together with such other opinions of the City Attorney as may be required by the contract entered into between the City and the initial purchaser or purchasers of the Series 1993 Bonds;

- (d) an opinion of bond counsel to the City stating the signer is of the opinion that the issuance, sale, and delivery of the Series 1993 Bonds have been duly authorized by the City, that the Series 1993 Bonds constitute legal, valid, and binding obligations of the City, and that interest on the Series 1993 Bonds is excludable from the gross income of the Bondholders under the Code, together with such other opinions of bond counsel as may be required by the contract entered into between the City and the initial purchaser or purchasers of the Series 1993 Bonds;

- (e) Verification by a firm of certified public accountants selected by the City that the Government Obligations purchased pursuant to paragraph (4) below are sufficient for the purposes described in paragraph (4) below; and

(f) a certificate of the Consulting Engineer setting forth the Expansion Percentage with respect to the Series 1993 Bonds.

When the documents mentioned in clauses (a) through (f) above shall have been received by the Chief Financial Officer, and when the Series 1993 Bonds shall have been executed as required by this Resolution, the Chief Financial Officer shall cause the Series 1993 Bonds to be delivered to or upon the order of the Purchaser but only upon payment of the purchase price of said Bonds, together with accrued interest, if any, thereon.

The proceeds of the Series 1993 Bonds (including accrued interest and any premium) of said Bonds shall be applied by the Chief Financial Officer as follows:

(1) the amount received as accrued and capitalized interest shall be deposited to the credit of the Interest Account;

(2) an amount estimated by the Chief Financial Officer to be sufficient for the purpose shall be retained by the Chief Financial Officer and applied to pay the expenses of issuing the Series 1993 Bonds, including, but not limited to, financial advisors, accounting and legal fees, rating agency fees, printing costs, premiums or other charges of the Insurer and the Reserve Policy Issuer, if any, Bond Registrar, verification agent, Consulting Engineers, Escrow Agent and Paying Agent fees and expenses, and any other miscellaneous expenses relating to the issuance of the Series 1993 Bonds;

(3) an amount which, together with any moneys deposited in the Reserve Fund by the City from sources other than the proceeds of the Series 1993 Bonds, is equal to the Reserve Fund Requirement shall be deposited to the credit of the Reserve Fund;

(4) from the proceeds of the Series 1993A Bonds, an amount sufficient for the purpose shall be applied to purchase Government Obligations the principal of which when due will be sufficient for the Escrow Agent to pay interest to become due on the Prior Bonds until their dates of maturity or redemption and to pay and redeem the Prior Bonds upon their dates of maturity or redemption, together with any redemption premiums and associated costs and expenses;

(5) from the proceeds of the Series 1993B Bonds, an amount sufficient for the purpose shall be retained by the Chief Financial Officer and applied to reimburse the City's general fund for Reimbursable Expenditures; and

(6) the balance of the proceeds of the Series 1993B Bonds shall be deposited to the credit of the 1993 Improvements Account within the Construction Fund.

Notwithstanding the provisions in clause (3) above, the city may elect to provide, on the date of issuance of the Series 1993 Bonds or at any time thereafter (but if thereafter, only with the consent of AMBAC) a Reserve Policy, such Reserve Policy to be in an amount equal to the difference between the Reserve Fund Requirement with respect to the Series 1993 Bonds and the amounts, if any, to be deposited or then on deposit in the Reserve Fund pursuant to subsection

(3) above, which Reserve Policy shall be payable on any interest or principal payment date (provided adequate notice is given in accordance with the terms of such Reserve Policy) on which a deficiency in the Debt Service Fund exists which cannot be cured with funds on deposit in any other Fund or Account held pursuant to this Resolution and available for such purpose. Such Reserve Policy shall name the Chief Financial Officer, in his capacity as the trustee of the Reserve fund, or the Paying Agent as the beneficiary thereof.

Notwithstanding the provisions of clause (3) above, in no event shall the amount of sale proceeds of the Series 1993 Bonds deposited to the credit of the Reserve Fund exceed the lesser of (a) 10% of the stated principal amount of the Series 1993 Bonds or, (b) 10% of the issue price (net of accrued interest) of the Series 1993 Bonds, except that if (b) would otherwise apply but, in the opinion of bond counsel to the City the amount of original issue discount or premium is de minimis within the meaning of Treasury Regulations Section 1.148-2(f), then (a) shall apply.

The Series 1993 Bonds shall be payable at the designated corporate trust office of the Paying Agent for the Series 1993 Bonds.

Simultaneously with the delivery of the Series 1993 Bonds, the Chief Financial Officer shall transfer or cause to be transferred all moneys in the several funds and accounts held under resolutions of the City securing the Prior Bonds in such manner as he shall deem advisable.

Section 208. Additional Bonds. In addition to the Bonds authorized under Section 207 above, Additional Bonds may be issued under this Resolution, on a parity (except as otherwise provided in this Resolution) with the Bonds previously issued under this Resolution and then Outstanding, subject to the conditions hereinafter provided in this Section, for the purpose of paying all or part of the cost of constructing or acquiring Improvements or for the purpose of refunding all or any portion of the Bonds then Outstanding.

Before any Additional Bonds shall be issued under this Section the City Council shall adopt a resolution or enact an ordinance authorizing the issuance of such Additional Bonds, fixing the amount and the details thereof, and describing in brief and general terms the Improvements to be constructed or acquired or the Bonds then Outstanding to be refunded. The Additional Bonds of each Series issued under this Section shall be dated, shall be stated to mature (subject to the right of prior redemption as hereinafter set forth or as set forth in a Subsequent Resolution) either on April 1 and October 1 or solely on October 1 or on such other dates as may be set forth in such Subsequent Resolution, in such year or years, shall have such Paying Agent and Bond Registrar and any Term Bonds of such Series shall have such Amortization Installments, may be made redeemable at such times and prices (subject to the provisions of Article III of this Resolution), all as may be provided by the ordinance or resolution authorizing the issuance of such Additional Bonds. Such Additional Bonds shall be executed in the form set forth in a Subsequent Resolution relating to such Additional Bonds, and shall be deposited with the Chief Financial Officer for delivery, but before such Additional Bonds shall be delivered, there shall be received by the Chief Financial Officer the following:

(a) A copy, certified by the City Clerk, of this Resolution and the resolutions or ordinances mentioned above;

(b) A copy, certified by the City Clerk, of the resolution or ordinance adopted by the City Council awarding such Additional Bonds, specifying the interest rate of each of such Additional Bonds and directing the delivery of such Additional Bonds to or upon the order of the purchaser therein named upon payment of the purchase price therein set forth;

(c) A certificate of the Chief Financial Officer or Consultant:

(i) stating that such person or firm has reviewed the books and records of the City relating to the collection and receipt of the Pledged Impact Fees and the Net Revenues;

(ii) setting forth the amount of the Net Revenues, adjusted as provided below, and the Pledged Impact Fees, for a period of 12 consecutive months of the immediately preceding 18 months (the "Test Period"); and

(iii) stating that the aggregate amount of such Net Revenues, adjusted as provided below, together with the Pledged Impact Fees collected in such Test Period, is equal to not less than 125% of the Maximum Principal and Interest Requirement on all Bonds then Outstanding and on the proposed Additional Bonds.

The Net Revenues for such immediately preceding Fiscal Year may be adjusted by the Chief Financial Officer or Consultant in order to satisfy the requirements of clause (iii) above to reflect for such immediately preceding Fiscal Year (a) any increases in the rates, fees, rentals or other charges for the products, services and facilities of the Water and Sewer System that constitute Revenues and that are made and in effect after the commencement of such Fiscal Year and before the date of such certificate, (b) any increases in Net Revenues caused by any new projects of the Water and Sewer System having been placed into use and operation subsequent to the date of commencement of such Fiscal Year and prior to the date of such certificate, (c) the amount of Net Revenues estimated by the Consultant, which estimate shall be certified to in writing by the Consultant, to be the Net Revenues that would have been derived during such immediately preceding Fiscal Year from the operation of any Improvements to be constructed or acquired out of the proceeds of such Additional Bonds or that would have been derived from the operation any other project of the Water and Sewer System actually under construction but not in use and operation on the date of such certificate, as if such Improvement or other project had been a part of the Water and Sewer System during such immediately preceding Fiscal Year.

(d) A certificate of the Chief Financial Officer, stating that the City is not in default in performing any of the covenants and obligations made and assumed hereunder, that the amount on deposit in the Reserve Fund as of the last valuation date was not less than the Reserve Fund Requirement and that no withdrawals have been made from the Reserve Fund for the purpose of paying Debt Service since that date, and that all payments herein required to have been made into the Accounts and Funds, as provided hereunder, have been made to the full extent required.

(e) An opinion of the City Attorney stating that the signer is of the opinion that this Resolution and any Subsequent Resolution adopted before the date of such opinion have been duly adopted by the City Council, that the issuance, sale, and delivery of the Additional Bonds has been duly authorized by the City, and that all conditions to the issuance, sale, and delivery, of the Additional Bonds required by the Charter of the City and any ordinances and resolutions adopted by the City Council relating to the issuance of bonds or the incurrence of debt have been satisfied, together with such other opinions of the City Attorney as may be required by the contract entered into between the City and the initial purchaser or purchasers of the Additional Bonds;

(f) An opinion of bond counsel to the City stating the signer is of the opinion that the issuance, sale and delivery of the Additional Bonds have been duly authorized by the City, that the Additional Bonds constitute legal, valid, and binding obligations of the City, and that interest on the Additional Bonds is excludable from the gross income of the Bondholders under the Code, together with such other opinions of bond counsel as may be required by the contract entered into between the City and the initial purchaser or purchasers of the Additional Bonds;

(g) A certificate of either the City or the Consulting Engineer setting forth the Expansion Percentage, if any, with respect to the Additional Bonds, except that if pursuant to the resolution, ordinance, or trust indenture pursuant to which such Additional Bonds are issued, the use of Impact Fees to pay Debt Service with respect to such Additional Bonds is expressly prohibited, then the certificate otherwise required to be delivered pursuant to this subparagraph (g) need not be delivered.

When the documents mentioned above in this Section shall have been delivered, and when the Additional Bonds described in the resolutions mentioned in clauses (a) and (b) of this Section shall have been executed as required by a Subsequent Resolution relating to such Additional Bonds, such Additional Bonds shall be delivered to or upon the order of the purchasers named in the ordinance or resolution mentioned in clause (b) above, but only upon payment to the Chief Financial Officer of the purchase price of such Additional Bonds, plus accrued interest, if any.

The proceeds of any Series of Additional Bonds (including accrued interest and any premium) of said Bonds shall be applied by the Chief Financial Officer as follows:

(1) the amount received as accrued interest and capitalized interest, if any, shall be deposited to the credit of the Interest Account;

(2) an amount estimated by the Chief Financial Officer to be sufficient for the purpose shall be retained by the Chief Financial Officer and applied to the payment of the expenses of issuing the Additional Bonds, including, but not limited to, financial advisors, accounting and legal fees, rating agency fees, printing costs, premiums or other charges of the Insurer and the Reserve Policy Issuer if any, Bond Registrar, Escrow Agent and Paying Agent's

fees and expenses and any other miscellaneous expenses relating to the issuance of the Additional Bonds;

(3) unless the City makes the election referred to in the next-to-last paragraph of this Section 208, an amount equal to the Reserve Fund Requirement for such Series of Additional Bonds shall be deposited to the credit of the Reserve Fund; and

(4) the balance shall be disposed of in the manner provided in a Subsequent Resolution relating to such Series of Additional Bonds.

Notwithstanding the provisions hereof, (i) if the net proceeds of any Series of Additional Bonds are to be applied by the City solely for the purpose of refunding Outstanding Bonds and no part of such proceeds is to be applied to pay the Cost of constructing or acquiring Improvements, then the certificate of the Chief Financial Officer or Consultant referred to in clause (c)(iii) above need not be delivered, and (ii) if the net proceeds of any Series of Additional Bonds, are to be used both for the purpose of refunding Outstanding Bonds and for the purpose of paying the Cost of Improvements, the Bonds to be refunded shall not be deemed to be Outstanding for the purpose of clause (c)(iii) above in the certificate of the Chief Financial Officer or Consultant required by this Section 208.

Notwithstanding the provisions of clause (3) above, the City may elect to provide on the date of issuance of any Series of Additional Bonds a Reserve Policy, such Reserve Policy to be in an amount equal to the difference between the Reserve Fund Requirement with respect to such Series of Additional Bonds and the amounts, if any, to be deposited in a separate account within the Reserve Fund pursuant to subsection (3) above, which Reserve Policy shall be payable on any interest or principal payment date (provided adequate notice is given in accordance with the terms of such Reserve Policy) on which a deficiency in the Debt Service Fund exists which cannot be cured with funds on deposit in any other Fund or Account held pursuant to this Resolution and available for such purpose. Such Reserve Policy shall name the Chief Financial Officer, in his capacity as the trustee of the Reserve Fund, or the Paying Agent, or the trustee under any trust indenture pursuant to which such Additional Bonds are issued, as the beneficiary thereof.

Notwithstanding the provisions of clause (3) above, in no event shall the amount of sale proceeds of any Series of Additional Bonds deposited to the credit of the Reserve Fund exceed the lesser of (a) 10% of the stated principal amount of such Series of Additional Bonds or, (b) 10% of the issue price (net of accrued interest) of such Series of Additional Bonds, except that if (b) would otherwise apply but, in the opinion of bond counsel to the City, the amount of original issue discount or premium is de minimis within the meaning of Treasury Regulations Section 1.148-2(f), then (a) shall apply.

Section 209. Temporary Bonds. Until the definitive Bonds of any Series are ready for delivery there may be executed, and the Chief Financial Officer may deliver, in lieu of definitive Bonds and subject to the same limitations and conditions except as to identifying numbers, temporary printed, engraved, lithographed or typewritten Bonds substantially of the tenor set

forth in the form of Series 1993 Bonds attached hereto as Exhibit B or, in the case of Additional Bonds, as set forth in a Subsequent Resolution. The City shall cause the definitive Bonds to be prepared and to be executed, endorsed, registered, and delivered to the Chief Financial Officer, and the Chief Financial Officer, upon presentation to him of any temporary Bond shall cancel the same or cause the same to be canceled and cause to be authenticated and delivered, in exchange therefor, at the place designated by the Holder, without expense to the Holder, definitive Bonds of the same Series and in the same aggregate principal amount, maturing on the same date and bearing interest at the same rate as the temporary Bond surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits of this Resolution as the definitive Bonds to be issued hereunder.

Section 210. Mutilated, Destroyed or Lost Bonds. If any Bonds become mutilated or destroyed or lost, the City may cause to be executed, and the Chief Financial Officer may cause to be delivered, a new Bond in substitution therefor and upon the cancellation of such mutilated Bond, or in lieu of and in substitution for such Bond destroyed or lost, upon payment by the Holder of the reasonable expenses and charges of the City in connection therewith and, in the case of a Bond destroyed or lost, upon the Holder filing with the Chief Financial Officer evidence satisfactory to the Chief Financial Officer that such Bond was destroyed or lost, and of his ownership thereof, and furnishing the City with indemnity satisfactory to it.

ARTICLE III

Redemption of Bonds

Section 301. Redemption Generally. The Bonds of each Series shall be subject to redemption, either in whole or in part on any date (whether or not such date is an interest payment date), and at such times and prices, as may be provided by a Subsequent Resolution.

If less than all of the Bonds of any one maturity of a Series shall be called for redemption, the particular Bonds to be redeemed shall be selected by lot, in any customary manner of selection, by the Paying Agent in such manner as the Paying Agent in its discretion may determine.

The City may purchase, or cause to be purchased, Bonds in the open market at a price no higher than the fair market value for said Bonds with any funds available therefor. The principal amount or Accreted Value of any Term Bonds purchased on the open market pursuant to this paragraph shall be credited against the Amortization Installments otherwise required to be paid in the Bond Year within which such purchase is made or in the first Bond Year thereafter in which an Amortization Installment is due, if no Amortization Installment is due in the Bond Year within which such purchase is made. If the Bonds so purchased are Serial Bonds, the principal amount thereof shall be credited against the amounts otherwise required by Section 502(A)(c) below to be deposited to the credit of the Principal Account in the Bond Year in which such Serial Bonds would have matured but for their purchase.

Section 302. Redemption Notice. All notices of redemption shall specify the Bond or Bonds (or portions thereof) to be redeemed, and the date and place for redemption, shall be given by the Registrar on behalf of the City, and (i) shall be filed with the Paying Agent for such Bonds, (ii) shall be mailed by first class mail, postage prepaid, at least thirty days and not more than sixty days before the proposed redemption date to all Holders of Bonds to be redeemed at their addresses as they appear on the registration books kept by the Registrar as of fifteen days before the mailing date, and (iii) shall be mailed by registered or certified mail, postage prepaid, or by telecopy or facsimile transmission at least thirty days before the redemption date to the registered securities depositories and two or more nationally recognized municipal bond information services. Such notice may also provide that any redemption is conditioned on such funds being on deposit in the Redemption Account on the redemption date and that a failure to make such deposit shall not constitute an event of default hereunder.

Each redemption notice shall state: (i) the CUSIP numbers of all Bonds being redeemed, (ii) the original issue date of such Bonds, (iii) the maturity date and rate of interest borne by each Bond being redeemed, (iv) the redemption price, (v) the date on which such notice is mailed, (vi) if less than all Outstanding Bonds are to be redeemed, the certificate number (and, in the case of a partial redemption of any Bond, the principal amount or Accreted Value) of each Bond to be redeemed; (vii) that on the redemption date there shall become due and payable upon each Bond to be redeemed the redemption price thereof, or the redemption price of the specified portions of the principal amount or Accreted Value thereof in the case of Bonds to be redeemed in part only, together with interest accrued on Current Interest Paying Bonds to the redemption date, and that from and after such date interest thereon shall cease to accrue or value shall cease to accrete and be payable, (viii) that the Bonds to be redeemed, whether as a whole or in part, are to be surrendered for payment of the redemption price and accrued interest, if any, at the principal office of the Bond registrar at an address specified, and (ix) the name and telephone number of a person designated by the Bond Registrar to be responsible for such redemption.

Failure to give notice by mailing to the Owner of any Bond designated for redemption shall not affect the validity of the proceedings for the redemption of any other Bonds as to which such notice was given. Failure of any Owner of any Bond to receive any notice of redemption given as provided hereinabove shall not affect the validity of the proceedings for the redemption of such Bonds. Failure to give notice to any depository or information service shall not affect the validity of the proceedings for the redemption of any Bonds.

Section 303. Effect of Calling for Redemption. On the date so designated for redemption, notice having been filed and mailed in the manner provided above, the Bonds so called for redemption shall be due and payable at the redemption price provided for redemption of such Bonds on such date and, moneys for payment of the redemption price being held in separate accounts by the Chief Financial Officer or by the Paying Agent in trust for the Holders of the Bonds to be redeemed, all as provided in this Resolution, interest on the Bonds so called for redemption shall cease to accrue, and value shall cease to accrete, such Bonds shall cease to be entitled to any benefit under this Resolution, and the Holders of such Bonds shall have no

rights in respect thereof, except to receive payment of the redemption price thereof, and such Bonds shall no longer be deemed to be Outstanding.

Section 304. Cancellation. Bonds so called for redemption shall be canceled upon the surrender thereof.

ARTICLE IV Construction Fund

Section 401. Construction Fund. A special fund is hereby created and designated the "Construction Fund" and within the Construction Fund there is hereby created and designated the "1993 Improvements Account," which fund and account shall be held by the Chief Financial Officer. At such time as any Series of Additional Bonds is issued for the purpose of constructing and acquiring Improvements there shall be created a separate account within the Construction Fund for each such Series of Additional Bonds, to the credit of which account there shall be deposited the amount set forth in a Subsequent Resolution relating to such Series of Additional Bonds.

The moneys in each account in the Construction Fund shall be held in trust and applied to the payment of the Cost of any Improvements and, pending such application, shall be subject to a first lien and charge in favor of the Holders of the Bonds with respect to which such account was created and for the further security of such Holders until paid out as herein provided.

Section 402. Payments From Construction Fund. Payment of the Cost of any Improvements shall be made from the special accounts referred to in Section 401 above. All such payments shall be subject to the provisions and restrictions set forth in this Article and the City covenants that it will not permit to be paid from the Construction Fund any sums except in accordance with such provisions and restrictions. Moneys in the Construction Fund shall be disbursed by check, voucher, order, draft, certificate or warrant signed by any one or more officers or employees of the City legally authorized to sign such items.

Section 403. Cost of Improvements. For the purposes of this Article, the Cost of any Improvements to be constructed or acquired shall include, without intending thereby to limit or to restrict or to extend any proper definition of such Cost under the provisions of this Resolution, or under generally accepted accounting principles applicable to governmental bodies, the following:

(a) obligations incurred for labor and materials and to contractors, builders and materialmen in connection with the construction of enlargements, improvements and extensions, for machinery and equipment, and for the restoration of property damaged or destroyed in connection with such construction and for the relocation of utility lines occasioned by road construction and for the demolition and disposal of structures necessary or desirable in connection with such construction or the operation of the Water and Sewer System and any other obligations properly chargeable to such Improvements;

(b) interest accruing upon any Bonds prior to the commencement of and during construction or for any additional period as may be authorized by law if so provided, and subject to any limitation, in the Subsequent Resolution providing for, or authorizing, the issuance of such Bonds;

(c) the cost of acquiring any water or sewer system now serving any portion of the City and territory adjacent thereto, or any part of such system, either within or without or partly within and partly without the corporate limits of the City;

(d) the cost of acquiring by purchase, if such purchase shall be deemed expedient, and the amount of any award or final judgment in any proceeding to acquire by condemnation, such land, structures and improvements, property rights, rights-of-way, franchises, easements, and other interests in lands as may be deemed necessary or convenient in connection with such construction or with the operation of the Water and Sewer System, and the amount of any damages incident thereto;

(e) expenses of administration properly chargeable to such construction or acquisition, legal, architectural and engineering expenses and fees, cost of audits, and of preparing and issuing the Bonds, fees and expenses of consultants, financing charges, taxes or other governmental charges lawfully assessed during construction, premiums on insurance in connection with construction, the cost of funding the Reserve Fund Requirement, if any, with respect to a Series of Bonds and all other items of expense not elsewhere in this Section specified, incident to the financing, construction or acquisition of any Improvements and the placing of the same in operation; and

(f) any obligation or expense incurred by the City for any of the foregoing purposes, within five (5) years preceding the date of delivery of the Bonds pursuant to Section 207 or Section 208 above, including the cost of materials, supplies or equipment furnished by the City in connection with the construction of any Improvements and paid for by the City out of funds other than moneys in the Construction Fund.

Section 404. Disposition of Balances in Construction Fund. When the construction of Improvements shall have been completed, which fact shall be evidenced to the Chief Financial Officer by a certificate stating the date of such completion, signed by the Consulting Engineer or by an employee of the City, the balance in the Construction Fund not reserved by the City for the payment of any remaining part of the Cost of such Improvements shall be transferred to the credit of the Principal Account or the Redemption Account, in such amounts to either or both such Accounts as the Chief Financial Officer shall in his discretion determine, and the amount so transferred shall be used to pay the principal of Bonds then Outstanding.

ARTICLE V

Revenues and Funds

Section 501. Water and Sewer System Revenue Fund. A special fund is hereby created and designated the "Water and Sewer System Revenue Fund" (herein called, the "Revenue Fund").

The City covenants that all Revenues will be collected by the City and deposited as received with a Depository or Depositories to the credit of the Revenue Fund. All moneys in the Revenue Fund shall be held in trust for the benefit of the Bondholders and applied only as provided in this Article. Pending such application, such Fund, and the moneys therein, shall be subject to a lien and charge in favor of the Bondholders, prior and superior to any other lien or encumbrance now existing or subsequently created.

Section 502. Debt Service and Other Funds and Accounts. A special fund is hereby created and designated "Debt Service Fund." There are hereby created in the Debt Service Fund three separate accounts designated "Interest Account," "Principal Account," and "Redemption Account." Additional special funds and accounts are hereby created and designated "Renewal and Replacement Fund," "Debt Service Reserve Fund" (herein called the "Reserve Fund"), "Operation and Maintenance Fund," "Surplus Fund" (and within the Surplus Fund two separate accounts are hereby created and designated "General Account" and "Restricted Account"), "Sewer Impact Fee Fund" (and within the Sewer Impact Fee Fund there are hereby created two accounts, the "Pledged Sewer Impact Fee Account" and the "Unpledged Sewer impact Fee Account"), and the "Water Impact Fee Fund" (and within the Water Impact Fee Fund there are hereby created two accounts, the "Pledged Water Impact Fee Account" and the "Unpledged Water Impact Fee Account").

The moneys in each Fund and Account, except moneys in the Operation and Maintenance Fund and the Unpledged Impact Fee Accounts, are hereby irrevocably pledged to payment of Debt Service and payment of any other amounts required by this Resolution. Such Funds and Accounts, and the moneys therein shall be held in trust and applied only as hereinafter provided with regard to each such Fund and Account. Pending such application, such Funds and Accounts, and the moneys therein, shall be subject to a lien and charge in favor of the Bondholders, prior and superior to any other lien or encumbrance now existing or subsequently created.

(A) **Withdrawals from Revenue Fund.** The Chief Financial Officer shall, on or before the 10th day of the first month after the month in which Bonds are issued and delivered under Section 207 of this Resolution, and not later than the 10th day of each month thereafter, withdraw the amounts, if any, required to be deposited in the Accounts and Funds pursuant to clauses (a) through (h) of this Section from the Revenue Fund, and deposit the sum so withdrawn to the credit of the following Accounts or Funds in the following order and priority:

(a) to the Operation and Maintenance Fund such sum as is necessary to pay the Cost of Operation and Maintenance projected for the month of withdrawal (in the case only of the first month after the month in which Bonds are issued and delivered) and the next ensuing month (in the case of such first month and all subsequent months);

(b) to the Interest Account, an amount equal to (i) one-sixth (1/6) of the amount of interest payable on the Bonds of each Series on the next interest payment date, or such lesser

amount as is required to make the amount then on deposit in the Interest Account equal to the amount of interest then or to become due and payable on the next interest payment date;

(c) to the Principal Account, an amount equal to one-sixth ($1/6$ th) of the next maturing installment of principal or Maturity Amount of Serial Bonds which mature semi-annually; and (i) an amount equal to one-twelfth ($1/12$ th) of the next maturing installment of principal or Maturity Amount of Serial Bonds which mature annually, or such lesser amount as is required to make the amount on deposit in the Principal Account equal to the principal amount and Maturity Amount of Serial Bonds then or to become due and payable on the next date on which Serial Bonds maturing provided, however, that during the Bond Year within which Bonds are issued and delivered to the initial purchasers, the deposits otherwise required by subsection (b) above and by this subsection (c) shall be increased or decreased pro-rata each month to the extent required to pay interest, principal and Maturity Amounts due in such Bond Year;

(d) on a parity with the deposits required by (b) and (c) above, to the Redemption Account beginning with the month of October in the first Bond Year in which an Amortization Installment is required, an amount equal to one-sixth ($1/6$) of such Amortization Installment (in the case of Term Bonds subject to mandatory redemption on April 1 of such Bond Year) or one-twelfth ($1/12$) of such Amortization Installment (in the case of Term Bonds subject to annual mandatory redemption on October 1 of such Bond Year), or such lesser amount as is required to make the amount on deposit in the Redemption Account equal to such Amortization Installment;

(e) to the Reserve Fund, (i) if at any time the amount on deposit in the Reserve Fund or any subaccount therein, together with the principal amount of any Reserve Policy on deposit in the Reserve Fund, is less than the Reserve Fund Requirement with respect to one or more Series of Bonds, an amount equal to not less than one-fourth of such deficiency in four or fewer substantially equal monthly deposits if such deficiency is a Valuation Deficiency and, if such deficiency is caused by a withdrawal from the Reserve Fund or any subaccount therein, an amount equal to one-twelfth ($1/12$ th) of such deficiency in each of the twelve months following the month within which such withdrawal was made, and (ii) if a Reserve Policy shall be drawn upon, amounts necessary in each month to pay the related Reserve Policy Issuer on the terms and conditions provided in such Reserve Policy. If there is more than one Reserve Policy, required repayments thereof shall be made on a pro rata basis (calculated by reference to the principal amounts thereof);

(f) if the amount then on deposit in the Renewal and Replacement Fund is less than the Renewal Replacement Fund Requirement, an amount equal to one-twenty fourth ($1/24$) of the amount of such increase shall be deposited from Gross Revenues each month, beginning with the first month following the month in which a deficiency exists, in the Renewal and Replacement Fund until the amount on deposit in such Fund is equal to the Renewal and Replacement Fund Requirement. If the amount on deposit in the Renewal and Replacement Fund exceeds the Renewal and Replacement Fund Requirement, such excess may be withdrawn from the Renewal and Replacement Fund and deposited into the Working Capital Reserve Fund to the extent there exists a deficiency in such fund and thereafter into the Surplus Fund. The moneys in the Renewal

and Replacement Fund shall be applied by the Issuer for the purpose of paying the cost of major extensions, improvements or additions to, or the replacement or renewal of capital assets of, the Water and Sewer System, or extraordinary repairs of the Water and Sewer System; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the twenty-fifth (25th) day of the month next preceding such payment date), moneys in the Renewal and Replacement Fund shall be applied for the payment into the Interest Account, the Principal Account, and the Redemption Account when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent that moneys transferred from the Pledged Sewer Impact Fee Account, the Pledged Water Impact Fee Account, and the Reserve Fund for such purpose shall be inadequate to fully provide for such insufficiency;

(g) to the payment of principal of, and interest on, subordinated indebtedness of the City issued pursuant to Section 816 below to the extent that such interest or principal is then due or will be due in the month within which a withdrawal from the Revenue Fund is made or otherwise as required by the terms of the resolution, ordinance, or loan agreement relating to such subordinated indebtedness; and

(h) to the Return on Investment Fund, one twelfth (1/12th) of the amount required to make the amount then on deposit in the Return on Investment Fund equal to the Rate of Return Factor for the current Fiscal Year. The moneys in the Return on Investment Fund shall be applied by the City for any lawful purpose of the City; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the twenty-fifth (25th) day of the month next preceding such payment date), moneys in the Return on Investment Fund shall be applied for the payment into the Interest Account, the Principal Account, and the Redemption Account when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent that moneys transferred from the Pledged Sewer Impact Fee Account, the Pledged Water Impact Fee Account for such purpose shall be inadequate to fully provide for such insufficiency;

(i) if the amount on deposit in the Working Capital Reserve Fund is less than the Working Capital Reserve Amount for the current Fiscal Year, there shall be deposited an amount equal to the difference between the current balance in the Working Capital Reserve Fund and the Working Capital Reserve Amount. If the amount on deposit in the Working Capital Reserve Fund exceeds the Working Capital Reserve Amount, such excess may be withdrawn from the Working Capital Reserve Fund and deposited into the Surplus Fund. The moneys in the Working Capital Reserve Fund may be applied by the City for the purpose of paying the Cost of Operation and Maintenance and cash funded capital expenditures on the Water and Sewer System; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the twenty-fifth (25th) day of the month next preceding such payment date), moneys in the Working Capital Reserve Fund shall be applied for the payment into the Interest Account, the Principal Account, and the Redemption Account when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent that moneys transferred from the Pledged Sewer Impact Fee Account, the Pledged Water Impact Fee Account for such purpose shall be inadequate to fully provide for such insufficiency;

(j) the balance remaining in the Revenue Fund each month, after making the foregoing deposits, shall be withdrawn therefrom and allocated to the credit of the General Account within the Surplus Fund until the total amount allocated to the General Account in any Fiscal Year equals \$2,000,000. At such time as the total amounts allocated to the credit of the General Account in any Fiscal Year equal \$2,000,000 then all subsequent amounts deposited to the Surplus Fund in such Fiscal Year shall be allocated to the credit of the Restricted Account within the Surplus Fund until the total amount allocated to the Restricted Account in such Fiscal Year equals \$2,000,000. Thereafter, deposits to the Surplus Fund in such Fiscal Year shall be divided equally between the General Account and the Restricted Account.

If the amount deposited in any month to the credit of any of the Accounts or Funds created pursuant to this Article V shall be less than the amount required to be deposited under the foregoing provisions of this Section, the amount of any deficiency shall be added to the amount otherwise required to be deposited in each month thereafter until such time as all such deficiencies have been cured.

(B) Sewer Impact Fees. The Chief Financial Officer shall deposit into the Pledged Sewer Impact Fee Account, immediately upon receipt, all Sewer Impact Fees, until an amount equal to (a) the Sewer Impact Fee Debt Service Component for the then-current Bond Year for each Series of Bonds, and (b) the excess, if any, of (i) the Sewer Impact Fee Debt Service Component for each Series of Bonds for any previous Bond Year, over (ii) the amount of Sewer Impact Fees deposited into the Pledged Sewer Impact Fee Account for such Series of Bonds in such Bond Year, shall be on deposit therein. Thereafter, all Sewer Impact Fees collected in such Bond Year shall be deposited, upon receipt, into the Unpledged Sewer Impact Fee Account.

Amounts on deposit in the Unpledged Sewer Impact Fee Account may be applied for the following purposes: (a) to the Pledged Sewer Impact Fee Account, in an amount which shall not exceed the Sewer Impact Fee Debt Service Component for each Series of Bonds for the then-current Bond Year, less any amounts previously transferred from the Pledged Sewer Impact Fee Account to the Debt Service Fund for such Series of Bonds during such Bond Year, or (b) to the City for use by the City for any purpose for which the Sewer Impact Fees may be lawfully used.

On or before the tenth (10th) day of each month, beginning with the first month after the month within which any Series of Bonds is issued, all or any portion of the amounts then on deposit in the Pledged Sewer Impact Fee Account may, at the option of the City, be transferred to any Account within the Debt Service Fund except that if, on the sixth Business Day before any payment of Debt Service is due there exists a deficiency in any such Account then there shall be transferred by the City from the Pledged Sewer Impact Fee Account the amount necessary to cure such deficiency. On the last day of each Bond Year any amounts remaining on deposit in the Pledged Sewer Impact Fee Account may be transferred to a subaccount in the Reserve Fund (including any payment due under a Reserve Policy), if the amount then on deposit therein is less than the Reserve Fund Requirement for the particular Series of Bonds, and the balance, if any, shall be transferred to the Unpledged Sewer Impact Fee Account.

Notwithstanding anything herein to the contrary, the aggregate amount of Sewer Impact Fees applied to pay Debt Service on any Series of Bonds at any given time may never exceed the Sewer Impact Fee Debt Service Component for the then-current Bond Year and for all previous Bond Years with respect to such Series of Bonds.

(C) **Water Impact Fees.** The Chief Financial Officer shall deposit into the Pledged Water Impact Fee Account, immediately upon receipt, all Water Impact Fees, until an amount equal to (a) the Water Impact Fee Debt Service Component for each Series of Bonds for the then-current Bond Year, and (b) the excess, if any, of (i) the Water Impact Fee Debt Service Component for each Series of Bonds for any previous Bond Year, over (ii) the amount of Water Impact Fees deposited into the Pledged Water Impact Account for such Series of Bonds in such Bond Year, shall be on deposit therein. Thereafter, all Water Impact Fees collected in such Bond Year shall be deposited, upon receipt, into the Unpledged Water Impact Fee Account.

Amounts on deposit in the Unpledged Water Impact Fee Account may be applied for the following purposes: (a) to the Pledged Water Impact Fee Account, in an amount which shall not exceed the Water Impact Fee Debt Service Component for each Series of Bonds for the then-current Bond Year less any amounts previously transferred from the Pledged Water Impact Fee Account to the Debt Service Fund for such Series of Bonds during such Bond Year, or (b) to the City for use by the City for any purpose for which the Water Impact Fees may lawfully be used.

On or before the tenth (10th) day of each month, beginning with the first month after the month within which any Series of Bonds is issued, all or any portion of the amounts then on deposit in the Pledged Water Impact Fee Account may, at the option of the City, be transferred to any account within the Debt Service Fund except that if, on the sixth Business Day before any payment of Debt Service is due there exists a deficiency in such account, then there shall be transferred by the City from the Pledged Water Impact Fee Account the amount necessary to cure such deficiency. On the last day of each Bond Year, any amounts remaining on deposit in the Pledged Water Impact Fee Account may be transferred to a subaccount in the Reserve Fund (including any payment due under a Reserve Policy), if the amount then on deposit therein is less than the Reserve Fund Requirement for the particular Series of Bonds, and the balance, if any, to the Unpledged Water Impact Fee Account.

Notwithstanding anything herein to the contrary, the aggregate amount of Water Impact Fees applied to pay Debt Service on any Series of Bonds at any given time may never exceed the Water Impact Fee Debt Service Component for the then-current Bond Year and for all previous Bond Years with respect to such Series of Bonds.

Section 503. Application of Moneys in Interest Account and Principal Account. The Chief Financial Officer shall, no later than one Business Day before each interest payment date (or, if such date is not a Business Day, then no later than the first Business Day after such date), withdraw from the Interest Account and the Principal Account and deposit in trust with the Paying Agent the amount required for paying the interest on the Bonds on such interest payment

date and the principal or Maturity Amount, if any, of all Serial Bonds payable on such interest payment date.

Section 504. Application of Moneys in Redemption Account. Moneys held for the credit of the Redemption Account shall be applied to pay the principal amount or Accreted Value of Bonds that have been purchased by the City pursuant to Article III above or that have been called for optional redemption by the City, together with the redemption premium thereon, if any, to pay the principal or Accreted Value of Term Bonds that are subject to mandatory redemption by the City in any Bond Year, and to pay the principal or Maturity Amount due at the maturity of Term Bonds.

Upon the retirement of any Bonds by purchase or redemption the Chief Financial Officer shall file in his records a statement briefly describing such Bonds and setting forth the date of their purchase or redemption, the amount of the purchase price or the redemption price of such Bonds and the amount paid as interest thereon. The expenses in connection with the purchase or redemption of any Bonds may be paid by the City from the Revenue Fund.

Section 505. Application of Moneys in Reserve Fund. Moneys held for the credit of a subaccount in the Reserve Fund shall be used for the purpose of paying Debt Service on the Series of Bonds secured by such subaccount, to the extent that the moneys held for the credit of the Revenue Fund, the Debt Service Fund, the Renewal and Replacement Fund, and the Pledged Impact Fee Accounts shall be insufficient for such purpose or to reimburse a Reserve Policy Issuer for draws made on the Reserve Policy, together with interest thereon at the rate specified in such Reserve Policy or separate agreement entered into between the City and such Reserve Policy Issuer. At the time of issuance of a Series of Bonds hereunder the City may elect not to establish a subaccount within the Reserve Fund as provided by the Subsequent Resolution. If established, amounts on deposit in such subaccount within the Reserve Fund shall only secure such Series of Bonds.

Section 506. Application of Moneys in Renewal and Replacement Fund and Operation and Maintenance Fund. Moneys held for the credit of the Renewal and Replacement Fund shall be used from time to time as needed only to cure deficiencies first in the Debt Service Fund and then in the Reserve Fund and after all such deficiencies have been cured to pay the cost of extensions of, and enlargements and additions to, and replacements of capital assets of, the Water and Sewer System and repairs thereto. Moneys held for the credit of the Operation and Maintenance Fund shall not be subject to the lien and pledge of this Resolution in favor of the Bondholders and shall be used from time to time to pay the Cost of Operation and Maintenance.

Section 507. Application of Moneys in Impact Fee Accounts. Amounts on deposit in the Pledged Sewer Impact Fee Account and the Unpledged Sewer Impact Fee Account shall be applied in the manner set forth in Section 502(B) above. Amounts on deposit in the Pledged Water Impact Fee Account the Unpledged Water Impact Fee Account shall be applied in the manner set forth in Section 502(C) above.

Section 508. Application of Moneys in Surplus Fund. Amounts on deposit in the Surplus Fund shall first be used to cure any deficiencies in the amounts required to be deposited in the Operation and Maintenance Fund, the Debt Service Fund, the Reserve Fund, and the Renewal and Replacement Fund pursuant to subparagraphs (a) through (g) of Section 502 above in any month. If such amounts are used to cure any such deficiencies, amounts shall be withdrawn from the General Account and the Restricted Account prorata in accordance with the relative amounts on deposit in each such account as of the last day of the month preceding the month in which such withdrawal is made. Thereafter, the amount on deposit in the General Account in any month may be used for any lawful purpose of the City and amounts on deposit in the Restricted Account may be used for any lawful purpose of the City connected with or related to the Water and Sewer System. For purposes of the foregoing, the term "any lawful purpose" and "any lawful purpose connected with or related to the Water and Sewer System" shall include, but shall not be limited to, purchase or redemption of Bonds, payment of subordinated indebtedness, and improvements, renewals and replacements to the Water and Sewer System.

Section 509. Moneys Held in Trust. All moneys which the Chief Financial Officer shall have withdrawn from the Debt Service Fund or shall have received from any other source, and deposited with the Paying Agent, for the purpose of paying Debt Service, either at maturity or upon call for redemption, shall be held in trust by the Paying Agent for the respective Holders of such Bonds. Any moneys which shall be so deposited with the Paying Agent by the Chief Financial Officer and which shall remain unclaimed by the Holders of such Bonds for a period of one year after the date on which such Bonds shall have become due and payable (or for such lesser period of time as such moneys would escheat to any State under applicable State law) shall be paid to the City or to such officer, board or body as may then be entitled by law to receive the same. Unless prohibited by the escheat or other laws of Florida relating to abandoned or unclaimed property, such moneys shall constitute the property of the City, free and clear of any and all claims of any person or governmental entity except the Bondholders entitled to receive such moneys, or if ownership of such moneys by the City free and clear of all such claims is prohibited by the escheat or other laws of Florida relating to abandoned or unclaimed property, then such moneys shall be held and disposed of in the manner provided by such laws, subject to the claims of such Bondholders. In no event shall such Bondholders have any claim against the City for amounts that the City has disposed of in accordance with the escheat or other laws of the State of Florida relating to unclaimed or abandoned property and, prior to disposing of such money in accordance with such laws the City shall have no liability to such Bondholders except to the extent of the amounts so received by the City from the Paying Agent, without any interest thereon, and neither the City nor the Paying Agent shall have any further responsibility with respect to such moneys.

Section 510. Cancellation of Bonds. All Bonds paid, redeemed or purchased, either at or before maturity, shall be canceled upon the payment, redemption or purchase of such Bonds. All Bonds canceled under any of the provisions of this Resolution shall be destroyed by the Paying Agent, which shall execute a certificate in duplicate describing the Bonds so destroyed and one executed certificate shall be filed with the Chief Financial Officer and the other executed certificate shall be retained by the Paying Agent.

Section 511. Governmental Accounting Effect. The cash required to be accounted for in each of the Funds and Accounts may be deposited in a single bank account, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the cash on deposit therein for the various purposes of such Funds and Accounts as herein provided. The designation and establishment of the various Funds and Accounts shall not be construed to require the establishment of any completely independent, self-balancing funds, as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of the Revenues and assets of the System for certain purposes to establish priorities for application of such Revenues and assets as herein provided.

ARTICLE VI

Depositories of Moneys, Security for Deposits and Investment of Funds

Section 601. Security for Deposits. All moneys received by the City under this Resolution shall:

- (a) be held either by the Chief Financial Officer in accordance herewith or shall be deposited with a Depository or Depositories;
- (b) shall be held in trust;
- (c) shall be applied in accordance with this Resolution; and
- (d) shall not be subject to lien or attachment by any creditor of the City other than the Bondholders and the Insurer.

All moneys held by the Chief Financial Officer or deposited with a Depository shall be credited to the particular Fund or Account to which such moneys belong.

Section 602. Investment of Moneys. Moneys held for the credit of the Construction Fund, the Revenue Fund, the Debt Service Fund, the Reserve Fund, the Pledged Impact Fee Accounts, the Unpledged Impact Fee Accounts, and the Renewal and Replacement Fund shall, as nearly as may be practicable, be continuously invested and reinvested by the Chief Financial Officer in Investment Obligations which shall mature, or which shall be subject to redemption by the holder thereof at the option of such holder, not later than the respective dates when moneys held for the credit of said Funds and Accounts will be required for the purposes intended, except that the portion of the proceeds of any Series of Bonds that represents accrued or capitalized interest shall be invested only in Government Obligations maturing at such times and in such amounts as are necessary to match the interest payments intended to be made with such proceeds.

Section 603. Disposition of Investment Earnings. Interest accruing on, and any profit realized from the investment of moneys in the Construction Fund, the Revenue Fund, the Debt Service Fund, the Reserve Fund, the Renewal and Replacement Fund, the Pledged Sewer Impact

Fee Account, and the Pledged Water Impact Fee Account shall be deposited to the credit of the Revenue Fund so long as the amount in the Reserve Fund is less than the amount required to be on deposit therein, such interest and profit shall remain in the Reserve Fund until the amount required shall be on deposit therein. However, if in determining the Cost of Improvements to be funded from the proceeds of any Series of Bonds it has been assumed that investment earnings on amounts on deposit in the account within the Construction Fund created in connection with the issuance of such Series of Bonds will be used to pay such Cost, then interest accruing on, and any profit realized from the investment of money in, such account within the Construction Fund shall remain in the Construction Fund. The interest accruing on, and any profit realized from the investment of money in, the Unpledged Sewer Impact Fee Account and the Unpledged Water Impact Fee Account shall remain therein. The Chief Financial Officer shall sell or present for payment or redemption any Investment Obligations so acquired whenever it shall be necessary so to do in order to provide moneys to meet any payment from such Fund or Account. Neither the Chief Financial Officer nor any agent thereof shall be liable or responsible for any loss resulting from any such investment.

Notwithstanding the foregoing, if in any Bond Year the earnings on investments held in any of the Funds, or on any Account within a Fund, are subject, in whole or in part, to rebate to the United States pursuant to Section 148(f) of the Code, then the Rebate Amount shall be withdrawn from the appropriate Fund or Account and shall be deposited to the credit of the Rebate Principal Subaccount. Earnings on investments held in the Rebate Principal Subaccount shall be transferred, as earned, to the credit of the Rebate Income Subaccount.

Section 604. Valuation of Funds and Accounts. In computing the amount in any Fund or Account, the value of Investment Obligations shall be calculated as follows:

(a) as to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(b) as to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;

(c) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest;

(d) as to any investment not specified above: the value thereof established by prior agreement between the City and the Insurer of the Series of Bonds to which such Investment Obligation relates. With respect to all Funds and Accounts except the Reserve Fund, valuation shall be made as of the last day of each Fiscal Year. Investment Obligations (except investment

agreements described below) in the Reserve Fund shall be valued as of March 31 of each calendar year and as of the last day of each Fiscal Year, except that if amounts are withdrawn from the Reserve Fund (other than a withdrawal of investment earnings pursuant to Section 603 above) then amounts remaining on deposit in the Reserve Fund shall be valued immediately after such withdrawal and as of the last Business Day of each month thereafter until there is an amount on deposit in the Reserve Fund equal to the Reserve Fund Requirement. Investment agreements that by their terms provide for repayment or liquidation at one time or from time to time at the principal amount thereof, with no condition to such repayment or liquidation other than notice of not more than two Business Days, shall be valued at 100% of the principal amount invested therein (i) for so long as the unsecured long-term debt of the provider or such agreement is rated by Moody's and S&P in one of their two highest rating categories, or (ii) for so long as the obligations of the provider of such agreement are collateralized with Government Obligations at the levels and meeting the criteria set forth in Article XIV below.

ARTICLE VII

Rebate Account

There is hereby created and established a Rebate Account and a Rebate Principal Subaccount and a Rebate Income Subaccount therein, all of which shall be held by the Chief Financial Officer. Moneys deposited and held in the Rebate Account shall not be subject to the pledge and lien of this Resolution.

The Chief Financial Officer shall pay to the United States, out of amounts held in the Rebate Account (a) not later than 30 days after the last day of the fifth Bond Year and every fifth Bond Year thereafter, an amount equal to at least ninety percent (90%) of the Rebate Amount (determined as of the last day of each such fifth Bond Year) and (b) not later than sixty (60) days after no Bonds are Outstanding, an amount equal to 100% of the Rebate Amount (determined as of the date of retirement of the last Bond).

If there are insufficient moneys in the Rebate Account to make the payments required by this Section, the City shall cause the amount of any such deficiency to be deposited in the Rebate Account from any legally available source. Each payment required to be made to the United States pursuant to this Section shall be submitted to the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255 on or before the date such payment is due, and shall be accompanied by a statement summarizing the determination of the amount required to be paid to the United States under this Section and by a copy of the Internal Revenue Service Form 8038 filed with respect to the Bonds.

ARTICLE VIII

Particular Covenants

Section 801. General. The City hereby makes the following covenants, in addition to all other covenants in this Resolution, with each and every successive Holder of any of the Bonds so long as any of said Bond remain Outstanding.

Section 802. Operation and Maintenance. The City will maintain or cause to be maintained the System and all portions thereof in good condition and will operate or cause to be operated the same in an efficient and economical manner, making or causing to be made such expenditures for equipment and for renewals, repairs and replacements as may be proper for the economical operation and maintenance thereof.

Section 803. Annual Budget. The City shall annually prepare and adopt, prior to the beginning of each Fiscal Year, an annual budget in accordance with applicable law. No expenditure for the operation and maintenance of the Water and Sewer System shall be made in any Fiscal Year in excess of the amount provided therefor in the Annual Budget until the Governing Body shall have approved such expenditure.

If for any reason the City shall not have adopted the Annual Budget before the first day of any Fiscal Year, other than the first Fiscal Year, the preliminary budget for such year, if it be approved by the Consulting Engineers, or otherwise the Annual Budget for the preceding Fiscal Year, shall be deemed to be in effect for such Fiscal Year until the Annual Budget for such Fiscal Year is adopted.

The City shall mail copies of such Annual Budgets and amended Annual Budgets and all resolutions authorizing increased expenditures for operation and maintenance to any Holder or Holders of Bonds who shall file his address with the Clerk and request in writing that copies of all such Annual Budgets and resolutions be furnished to him and shall make available all such Annual Budgets and resolutions authorizing increased expenditures for operation and maintenance of the Water and Sewer System at all reasonable times to any Holder or Holders of Bonds or to anyone acting for and on behalf of such Holder or Holders.

Section 804. Rates. The City shall fix, establish and maintain such rates and collect such fees, rates or other charges for the product, services and facilities of its Water and Sewer System, and revise the same from time to time, whenever necessary, as will always provide in each Fiscal Year, (A) Net Revenues and Pledged Impact Fees adequate at all times to pay in each Fiscal Year (i) at least one hundred twenty-five percent (125%) of the Principal and Interest Requirement becoming due in such Fiscal Year and (ii) all deposits to the Reserve Fund required by Section 502(A)(e) to be made in such Fiscal Year to the extent that such deposits are required as a result of a withdrawal from the Reserve Fund, and (B) Net Revenues adequate at all times to pay in each Fiscal Year (i) at least one hundred ten percent (110%) of the Principal and Interest Requirement becoming due in such Fiscal Year and (ii) all deposits to the Reserve Fund required by Section 502(A)(e) to be made in such Fiscal Year to the extent that such deposits are required as a result of a withdrawal from the Reserve Fund. Such rates, fees or other charges shall not be reduced so as to be insufficient to provide adequate Net Revenues and Pledged Impact Fees for the purposes provided therefor by this Resolution.

Section 805. Books and Records. The City shall keep books, records and accounts of the revenues and operations of the Water and Sewer System, which shall be kept separate and apart from all other books, records and accounts of the City, and the Holders of not less than five

percent (5%) in aggregate principal amount of the Bonds Outstanding or the duly authorized representatives thereof shall have the right at all reasonable times to inspect all books, records and accounts of the City relating thereto.

Section 806. Annual Audit. The City shall, immediately after the close of each Fiscal Year, cause the financial statements of the Water and Sewer System to be properly audited by a recognized independent firm of certified public accountants, and shall require such accountants to complete their report on the annual financial statements in accordance with applicable law. Such annual financial statements shall contain, but not be limited to, a balance sheet, an income statement, a statement of changes in financial position, a statement of changes in retained earnings, and any other statements as required by law or accounting convention, and a report by such accountants disclosing any material default on the part of the City of any covenant or agreement herein which is disclosed by the audit of the financial statements. The annual financial statements shall be prepared in conformity with generally accepted accounting principles. A copy of the audited financial statements for each Fiscal Year shall be furnished to any Insurer and to any Holder of a Bond who shall have furnished his address to the Clerk and requested in writing that the same be furnished to him.

Section 807. No Mortgage or Sale of the Water and Sewer System. The City irrevocably covenants, binds and obligates itself not to sell, lease, encumber or in any manner dispose of the Water and Sewer Systems as a whole or any substantial part thereof (except as provided below) until such time as there are no Bonds Outstanding. The foregoing provision notwithstanding, the City shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the Water and Sewer System in the following manner, if any one of the following conditions exist: (A) such property is not necessary for the operation of the Water and Sewer System, (B) such property is not useful in the operation of the Water and Sewer System, (C) such property is not profitable in the operation of the Water and Sewer System, or (D) in the case of a lease of such property, will be advantageous to the Water and Sewer System and will not adversely affect the security for the Bondholders.

Prior to any such sale, lease or other disposition of said property: (1) if the amount to be received therefor is not in excess of one-fourth ($1/4$) of one percent (1%) of the value of the gross plant of the Water and Sewer System at original cost, the utilities administrator or other appropriate City employee shall make a finding in writing determining that one or more of the conditions for sale, lease or disposition of property provided for in the second paragraph of this Section have been met; or (2) if the amount to be received from such sale, lease or other disposition of said property shall be in excess of one-fourth ($1/4$) of one percent (1%) of the value of the gross plant of the Water and Sewer System at original cost, the utilities administrator or other appropriate City employee and the Consulting Engineers shall each first make a finding in writing determining that one or more of the conditions for sale, lease or other disposition of property provided for in the second paragraph of this Section have been met, and the City shall, by resolution, duly adopt, approve and concur in the finding of the Utilities Administrator or other Authorized City Officer and the Consulting Engineers.

The proceeds from such sale, lease or other disposition shall be deposited first, into the Renewal and Replacement Fund to the extent necessary to make the amount therein equal to the Renewal and Replacement Fund Requirement, and, second, into the Surplus Fund.

The transfer of the Water and Sewer System as a whole from the control of the City Council to some other board or authority which may hereafter be created for such purpose and which constitutes a governmental entity, obligations of which are exempt from Federal income taxation under Section 103(a) of the Code shall not be deemed prohibited by this Section and such successor board or authority shall fall within the definition of "City" in Section 101 hereof.

Notwithstanding the foregoing provisions of this Section 807, the City shall have the authority to sell for fair and reasonable consideration any land comprising a part of the Water and Sewer System which is no longer necessary or useful in the operation of the Water and Sewer System and the proceeds derived from the sale of such land shall be disposed of in accordance with the provisions of the fourth paragraph in this Section 807.

The City may make contracts or grant licenses for the operation of, or grant easements or other rights with respect to, any part of the Water and Sewer System if such contract, license, easement or right does not, in the opinion of the Consulting Engineers, as evidenced by a certificate to that effect filed with the City, impede or restrict the operation by the City of the Water and Sewer System, but any payments to the City under or in connection with any such contract, license, easement or right in respect of the Water and Sewer System or any part thereof shall constitute Revenues.

Section 808. Insurance. The City will carry such insurance as is ordinarily carried by private or public corporations owning and operating utilities similar to the Water and Sewer System with a reputable insurance carrier or carriers, including public and product liability insurance in such amounts as the City shall determine to be sufficient and such other insurance against loss or damage by fire, explosion (including underground explosion), hurricane, tornado or other hazards and risks, and said property loss or damage insurance shall at all times be in an amount or amounts equal to the fair appraisal value of the buildings, properties, furniture, fixtures and equipment of the Water and Sewer System, or such other amount or amounts as the Consulting Engineers shall approve as sufficient.

The City may establish certain minimum levels of insurance for which the City may self-insure. Such minimum levels of insurance shall be in amounts as recommended in writing by an insurance consultant who has a favorable reputation and experience and is qualified to survey risks and to recommend insurance coverage for Persons engaged in operations similar to the Water and Sewer System.

The proceeds of any such insurance (except for proceeds of any use and occupancy insurance) shall be held in the appropriate account within the Construction Fund and applied in accordance with the provisions of Article IV above to pay the cost of such repair and replacement

and, to the extent not so applied, shall (together with proceeds of any such use and occupancy insurance) be deposited into the Revenue Fund.

Section 809. No Free Service; Preferential Rates. Except as provided below; the City will not render, or cause to be rendered, any free services of any nature by its Water and Sewer System or any part thereof.

If the City, or any department, agency, instrumentality, officer or employee thereof, shall avail itself of the Water and Sewer System or services provided by said Water and Sewer System or any part thereof, the same rates, fees, charges or assessments applicable to other customers receiving like services under similar circumstances shall be charged the City and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be Revenues derived from the operation of the Water and Sewer System and shall be deposited and accounted for in the same manner as other Revenues.

Except as provided below; the City shall not establish preferential rates for users. Notwithstanding the foregoing, the City may reasonably establish different classes of users of any component or components of the Water and Sewer System for purposes of charging different rates between classes (e.g., residential users, commercial users, users located inside City limits, users located outside City limits, etc.).

The City may reduce or waive the imposition of any rates, fees, charges or assessments for individual users located within the City limits of any component or components of the Water and Sewer System if the City determines and finds that it is in the best interests of the health, safety, and general welfare of its citizens to grant such reduction or waiver. The waiver or reduction of such rates, fees, charges or assessments will require prior findings of the Council that (i) such action will result in a substantial increase in the City's tax base or offer additional jobs to the citizens of the City and (ii) such action will not impair the City's ability to meet the covenants contained in this Resolution. Such action shall require the affirmative vote of at least four members of Council.

Section 810. No Impairment of Rights. The City will not enter into any contract or contracts, nor take any action, the results of which might impair the rights of the Holders of the Bonds and will not permit the operation of any competing water or sewer service facilities in the City; provided, however, the City reserves the right to permit the ownership and operation of water or sewer service facilities or both by itself or by others in any territory which is not in any service area now or hereafter served by the Water and Sewer System.

Section 811. Compulsory Water and Sewer Connections. In order to better secure the prompt payment of principal and interest on the Bonds, as well as for the purpose of protecting the health and welfare of the inhabitants of the City, and acting under authority of the general laws of Florida, the City will, to the extent permitted by law, require (A) every owner of each lot in the City which abuts upon any street or public way containing a sewer line forming a part of the Sewer System and upon which lot a building shall subsequently be constructed for residential,

commercial or industrial use, to connect such building to such sewer facilities and to cease to use any other method for the disposal of sewage waste or other polluting matter, and (B) every owner of each lot in the City which abuts upon any street or public way containing a water line forming a part of the Water System and upon which lot a building shall subsequently be constructed for residential, commercial or industrial use, to connect such building to such water facilities.

Section 812. Enforcement of Charges. The City shall compel the prompt payment of rates, fees and charges imposed for service rendered on every lot or parcel connected with the Water and Sewer System, and to that end will vigorously enforce all of the provisions of any ordinance or resolution of the City having to do with water and sewer connections and charges, and all of the rights and remedies permitted by the City under law, including the requirement for the making of a reasonable deposit by each user, the requirement for disconnection of all premises delinquent in the payment, and the securing of injunction against the disposition of sewage or industrial waste into the sewer facilities of the Water and Sewer System by any premises delinquent in the payment of such charges.

Section 813. Unit Water and Sewer Bills. In every instance in which a building or structure on a lot is connected to the Sewer System, which building or structure is also connected to the Water System and receives water therefrom, the City shall submit to the owner or occupant of such lot a single bill for both water and sewer service.

Section 814. Collection of Impact Fees. The City shall proceed diligently to perform legally and effectively all steps required in the imposition and collection of the Impact Fees. Upon the due date of any such Impact Fees, the City shall diligently proceed to collect the same and shall exercise all legally available remedies to enforce such collections now or hereafter available under State law.

Section 815. Consulting Engineers. The City shall employ one or more Consultants to perform the duties required under this Resolution. The City shall or cause the Consultant to review the construction and operation of the Water and Sewer System, to make an inspection of the Water and Sewer System at least once every three years, and on or before May 1 of the year following the Fiscal Year for which such inspection was made, to submit to the City a report with recommendations as to the proper maintenance, repair and operation of the Water and Sewer System during the ensuing Fiscal Year, including recommendations for expansion and additions to the Water and Sewer System to meet anticipated service demands, and an estimate of the amount of money necessary for such purposes. Copies of such reports, recommendations and estimates made as hereinabove provided shall be filed with the City for inspection by Bondholders, if such inspection is requested.

Section 816. Subordinate Obligations. Notwithstanding any other provision of this Resolution the City may issue obligations or incur indebtedness other than the Bonds which are payable in whole or in part from the Net Revenues, the amounts on deposit from time to time in the Pledged Sewer Impact Fee Account, or amounts on deposit from time to time in the Pledged Water Impact Fee Account but only if such obligations are, by their terms, expressly subordinate

in right to payment from the foregoing sources to all Bonds theretofore or thereafter issued under this Resolution.

Section 817. Right to Borrow and Pledge Federal Grants. Notwithstanding anything contained in this Resolution, the City shall have the right to incur indebtedness for the purpose of paying all or any part of the Cost of Improvements for which the City has a grant agreement, provided that such indebtedness shall be payable solely from moneys to be received by the City pursuant to such grant agreement and such indebtedness may in no event be payable from the Pledged Revenues.

Section 818. Federal Income Tax Covenants. The City covenants with the Bondholders that:

(a) it will not use the proceeds of the Bonds in any manner that would cause the interest on any of the Bonds to become includable in the gross income of the Holders thereof for Federal income tax purposes and, without limiting the generality of the foregoing, the City will not use the proceeds of any Bonds (including amounts that are deemed to constitute "proceeds" of Bonds solely for purposes of the Code) in any manner that would cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code; and

(b) it will comply with all provisions of the Code necessary to maintain the exclusion from gross income of interest on the Bonds for Federal income tax purposes and, without limiting the generality of the foregoing, that it will timely rebate to the United States government the amounts required to be rebated pursuant to Section 148(f) of the Code.

Notwithstanding the foregoing, the City may issue Bonds, the interest on which is includable in the gross income of the Holders thereof for Federal income tax purposes, if such Bonds state on their face that the interest payable thereon is so includable.

Section 819. Creation of Cocoa Wholesale Water Supply System. Notwithstanding any other provision in this Resolution to the contrary, the City may establish a wholesale water supply system accounted for separate and apart from the Water System described herein. Such wholesale water supply system, if created, shall be known as the Cocoa Wholesale Water Supply System. The Cocoa Wholesale Water Supply System may be established by the City pursuant to resolution or ordinance if the following conditions are satisfied:

(a) The City establishes an enterprise fund segregating the revenues and operating expenses relating to the Cocoa Wholesale Water Supply System. Except as otherwise provided herein, the revenues and operating expenses of the Cocoa Wholesale Water Supply System shall be accounted for separate and apart from those of the Water System.

(b) The City provides that the Cocoa Wholesale Water Supply System shall only provide wholesale water service to its customers; which may include the City on behalf of the Water System, the City of Titusville which is currently a wholesale customer of the Water System

and any other exclusively wholesale customers of the Water System prior to and after the establishment of the Cocoa Wholesale Water Supply System.

(c) The City provides that debt of the Cocoa Wholesale Water Supply System shall not be secured pursuant to this Resolution, including funds and accounts established hereby.

(d) The City provides a general description of the facilities and other property which shall constitute the Cocoa Wholesale Water Supply System.

In the event the City establishes the Cocoa Wholesale Water Supply System, operating expenses, consultant services and fees, City personnel and services and provision for insurance shall be allocated on a Fair Market Value Basis and consistent with industry standards. Facilities and other property of the Water System may be shared with or sold, transferred or leased to the Cocoa Wholesale Water Supply System, provided that the following conditions have been met prior to and with respect to any such shared use, sale, transfer or lease of Water System Facilities or other property with a value in excess of one-fourth of one percent (.25%) of the gross plant value of the Water System (each, a "Disposition"):

(i) the provisions of Section 807 hereof shall apply to the establishment of the Cocoa Wholesale Water Supply System and any Disposition, and

(ii) the ratio of (A) Net Revenues to (B) the Principal and Interest Requirements (the "Coverage Ratio") as of the end of the Fiscal Year immediately preceding any proposed Disposition shall not have been less than the minimum required. Coverage Ratio set out in clause (iv) below; and

(iii) a Consulting Engineer approved by the 1999 Bonds Insurer shall have determined that, after any Disposition, the projected Coverage Ratio of the Water System as it will exist after the proposed Disposition for each of the two Fiscal Years subsequent to the year in which the Disposition is expected to be completed will not be less than 150% (1.50 times coverage), including in the projected Coverage Ratio the Principal and Interest Requirements for any Additional Bonds for each such Fiscal Year; and

(iv) if (A) for any Fiscal Year in which a Disposition occurs, and for each of the two Fiscal Years after each Disposition, the Coverage Ratio is not less than 150% (1.50 times coverage), (B) for the third Fiscal Year following a Disposition, the Coverage Ratio is not less than 135% (1.35 times coverage) or (C) for each Fiscal Year thereafter, the Coverage Ratio is not less than 125% (1.25 times coverage), then the City shall retain an Consulting Engineer approved by the 1999 Bonds Insurer within 180 days after the end of such Fiscal Year to provide a review of the Water System operations and to make recommendations to increase the Coverage Ratio to the required minimum levels; and

(v) if, following any Disposition, the City shall fail to maintain the minimum Coverage Ratio requirements set out in the foregoing clause (iv) for any Fiscal Year, then the cash deposit into the Reserve Fund shall not be released (except for purposes of paying

Debt Service or to reimburse a Reserve Policy Issuer) so long as the Reserve Policy issued by the 1999 Bonds Insurer shall remain on deposit therein.

The City shall cause to be delivered to the 1999 Bonds Insurer a copy of the annual audit report required pursuant to Section 805 of this Resolution together with a certificate of the Accountant in the event a Disposition had occurred in the Fiscal Year related to such audit report, certifying that the Coverage Ratio complies with the requirements of subparagraph (iv) above. Such certification of compliance may be delivered by the Chief Financial Officer in the second through fourth Fiscal Years following any Disposition. Such certifications shall be delivered no later than the date the annual financial statements are delivered each year by the Accountant to the City Council.

ARTICLE IX

Remedies

Section 901. Extension of Interest Payment. If the time for payment of interest of any Bond shall be extended, whether or not such extension be by or with the consent of the City, such interest so extended shall not be entitled in case of default hereunder to the benefit or security of this Resolution except subject to the prior payment in full of the principal or Accreted Value of all Bonds then Outstanding and of all interest the time for payment of which shall not have been extended.

Section 902. Events of Default. Each of the following events is hereby declared an "event of default," that is to say: If

- (a) any payment of Debt Service is not made when due;
- (b) the City shall for any reason be rendered incapable of fulfilling its obligations hereunder;
- (c) the City admits in writing its inability to pay its debts generally as they become due, or files a petition in bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of a receiver or trustee for itself;
- (d) the City is adjudged insolvent by a court of competent jurisdiction, or is adjudged a bankrupt on a petition in bankruptcy filed against it, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, with the consent of the City, a receiver or trustee of the City or the whole or any part of its property and any of the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within ninety days from the date of entry thereof;
- (e) the City shall file a petition or answer seeking reorganization or any arrangement under the Federal bankruptcy laws or any other similar law of the United States of America or any state thereof;

(f) the City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Resolution on the part of the City to be performed and such default shall continue for thirty days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by the Holder of not less than five percent in aggregate principal amount and Accreted Value (as of the interest payment date preceding delivery of such written notice to the City) of the Bonds then Outstanding.

Section 903. Acceleration of Maturities. Upon the happening and continuance of any event of default specified in subsection (a) through (e) of Section 902 above, the Holders of not less than fifty-one percent (51%) of the aggregate principal amount and Accreted Value (as of the interest payment date immediately preceding the date of default of the Bonds then Outstanding may, with the consent of AMBAC with respect to the Series 2003 Bonds, by notice in writing delivered to the City and AMBAC, declare the principal and Accreted Value of all of the Bonds then Outstanding (if not then due and payable) to be due and payable immediately, whereupon that portion of the principal of the Bonds thereby coming due and the interest thereon accrued to the date of payment shall, without further action, become and be immediately due and payable, anything in this Resolution or in the Bonds to the contrary notwithstanding; provided, however, that if at any time after the principal and Accreted Value of the Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Resolution, moneys shall have accumulated in the Debt Service Fund sufficient to pay the principal and Accreted Value of all matured Bonds and all arrears of interest, if any, upon all Bonds then Outstanding (except the principal and Accreted Value of any Bonds not then due except by virtue of such declaration and the interest accrued on such Bonds since the last interest payment date), and all amounts then payable by the City hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Paying Agent, and every other default (other than a default in the payment of the principal and Accreted Value of such Bonds then due only because of a declaration under this Section) shall have been remedied, then the Holders of not less than a majority in aggregate principal amount and Accreted Value of the Bonds not then due except by virtue of such declaration and then Outstanding may, with the consent of AMBAC, by written notice to the City, rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

Section 904. Enforcement of Remedies. Upon the happening and continuance of any event of default specified in Section 902 above, the Holders of not less than ten percent (10%) in aggregate principal amount and Accreted Value (as of the interest payment date immediately preceding the date of default) of the Bonds then Outstanding may protect and enforce the rights of the Bondholders under Florida law, or under this Resolution and the Bonds, by such proceedings in equity or at law, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any

proper legal or equitable remedy, as such Bondholder shall deem most effectual to protect and enforce such rights.

Section 905. Pro Rata Application of Funds. Anything in this Resolution to the contrary notwithstanding, if at any time the moneys in the Debt Service Fund shall not be sufficient to pay Debt Service as the same becomes due (either by the terms of the Bonds or by acceleration of maturities under the provisions of Section 903 of this Article), such moneys shall be applied only to payment of the Series 1993 Bonds), together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article or otherwise, shall be applied as follows:

(a) Unless the principal or Accreted Value of all the Bonds shall have become due and payable or shall have been declared due and payable, all such moneys shall be, applied

first: to payment to the persons entitled thereto of all installments of interest then due and payable on the Current Interest Paying Bonds, in the order in which such installments become due and payable, and to the difference between the original principal amount and the Accreted Value on the payment date of Compound Interest Bonds in the order in which such value accreted, and if the amount available shall not be sufficient to pay in full any particular installment and accretion, then to the payment ratably, according to the amounts due on such installment and the amount of such accretion, to the persons entitled thereto, without any discrimination or preference except as to any difference in the rates of interest specified in the Bonds;

second: to the payment to the persons entitled thereto of the unpaid principal and Accreted Value of any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which sufficient moneys are held pursuant to this Resolution), in the order of their due dates, with interest upon such Bonds (i) at the rates specified therein from the date upon which they become due, in the case of Current Interest Paying Bonds, and (ii) at the yield to maturity from the dates upon which they became due, in the case of Compound Interest Bonds, and, if the amount available shall not be sufficient to pay in full the principal of Bonds due on any particular date, together with such interest, then to the payment first of such interest, ratably according to the amount of such interest due on such date, and then to the payment of such principal, ratably according to the amount of such principal due on such date, to the persons entitled thereto without any discrimination or preference except as to any difference in the foregoing rates of interest; and

third: to the payment of the interest on and the principal or Accreted Value of the Bonds, to the purchase and retirement of Bonds and to the redemption of Bonds, all in accordance with the provisions of Article V above.

(b) If the principal or Accreted Value of all the Bonds shall have become due and payable or shall have been declared due and payable, all such moneys shall be applied to the

payment of the whole amount of principal, Accreted Value, and interest then due and unpaid upon the Bonds, without preference or priority of principal, Accreted Value, or of interest or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal, Accreted Value, and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal and Accreted Value of all the Bonds shall have been declared due and payable and if such declaration shall thereafter have been rescinded and annulled under Section 903 of this Article, then, subject to the provisions of paragraph (b) of this Section if the principal or Accreted Value of all the Bonds shall later become due or be declared due and payable, the moneys remaining in and thereafter accruing to the Debt Service Fund shall be applied in accordance with paragraph (a) of this Section.

The provisions of this Section are in all respects subject to the provisions of Section 901 of this Article.

Whenever moneys are to be applied pursuant to this Section, such moneys shall be applied by the City at such times as the Chief Financial Officer in his sole discretion shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application. The deposit of such moneys with the Paying Agent, or otherwise setting aside such moneys, in trust for the proper purpose, shall constitute proper application by the City and the City shall incur no liability whatsoever to any Bondholder or to any other person for any delay in applying any such funds, so long as the City acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of this Resolution as may be applicable at the time of application. Whenever the Chief Financial Officer shall exercise such discretion in applying such funds, he shall fix the date upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Chief Financial Officer shall give such notice as he may deem appropriate of the fixing of any such date, and shall not be required to make payment to any Bondholder until such Bond shall be surrendered to him for appropriate endorsement.

Section 906. Effect of Discontinuance of Proceedings. If any proceeding taken by any Bondholder on account of any default shall have been discontinued or abandoned for any reason, then the City and the Bondholder shall be restored to their former positions and rights hereunder, respectively, and all rights and remedies of the Bondholders shall continue as though no such proceeding had been taken.

Section 907. Restriction on Individual Bondholder Actions. Except as provided in Section 910 below, no Holder of any of the Bonds shall have any right in any manner whatever to affect, disturb or prejudice the security of this Resolution or any Subsequent Resolution, or to enforce any right hereunder except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the benefit of all Holders of such Bonds.

Section 908. No Remedy Exclusive. No remedy conferred upon the Bondholders is intended to be exclusive of any other remedy herein provided, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder.

Section 909. Delay Not a Waiver. No delay or omission of any Bondholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given to the Bondholders may be exercised from time to time and as often as may be deemed expedient.

Section 910. Right to Enforce Payment of Bonds. Nothing in this Article shall affect or impair the right of any Bondholder to enforce the payment of the principal, Accreted Value, interest, and premium on his Bond, or the obligation of the City to pay the same to the Holder at the time and place in said Bond expressed.

Section 911. Consent of AMBAC Upon Default. Anything in this Resolution to the contrary notwithstanding, upon the occurrence and continuance of any Event of Default, AMBAC shall be entitled to control and direct the enforcement of all rights and remedies granted under this Resolution to the Holders of Bonds as to which AMBAC has issued its Insurance Policy including, without limitation: (i) the right to accelerate the principal of such Bonds as described in Section 903 above, and (ii) the right to annul any declaration of acceleration, and AMBAC shall also be entitled to approve all waivers of Events of Default.

ARTICLE X

Execution of Instruments by Bondholders and Proof of Ownership of Bonds

Section 1001. Execution of Instruments by Bondholders and Proof of Ownership of Bonds. Any request, direction, consent or other instrument in writing required or permitted by this Resolution to be signed or executed by Bondholders may be in any number of concurrent instruments of similar tenor and may be signed or executed by Bondholders or their attorneys or legal representatives. Proof of the execution of any such instrument shall be sufficient for any purpose of this Resolution and shall be conclusive in favor of the City with regard to any action taken by it under such instrument if verified by any officer in any jurisdiction who, by the laws thereof, has power to take affidavits within such jurisdiction, to the effect that such instrument was subscribed and sworn to before him, or by an affidavit of a witness to such execution. Where such execution is on behalf of a person other than an individual such verification or affidavit shall also constitute sufficient proof of the authority of the signer thereof.

Nothing contained in this Article shall be construed as limiting the Chief Financial Officer to such proof, it being intended that the Chief Financial Officer may accept any other evidence of the matters herein stated which he may deem sufficient. Any request or consent of the Holder of any Bond shall bind every future holder of the same Bond in respect of anything done by the City in pursuance of such request or consent.

Section 1002. Deposit of Bonds. Notwithstanding the foregoing, the Chief Financial Officer shall not be required to recognize any person as a Holder of any Bond or to take any action at his request unless such Bond shall be deposited with him.

ARTICLE XI

Amending or Supplemental Resolutions

Section 1101. Amending or Supplemental Resolutions Without Bondholders' and Insurers' Consent. The City Council, from time to time, may adopt such resolutions amending or supplementing the terms and provisions hereof without the consent of the Bondholders and, except as provided in Section 1101(h) below, without the consent of any Insurer:

(a) to cure any ambiguity or formal defect or omission or to correct any inconsistent provisions in this Resolution or in any Subsequent Resolution; or

(b) to grant to the Bondholders any additional rights or security that may lawfully be granted to the Bondholders; or

(c) to add to the conditions, limitations and restrictions on the issuance of Bonds under the provisions of this Resolution other conditions, limitations and restrictions thereafter to be observed; or

(d) to add to the covenants and agreements of the City in this Resolution other covenants and agreements thereafter to be observed by the City or to surrender any right or power herein reserved to or conferred upon the City; or

(e) to authorize the issuance of any Additional Bonds pursuant to Section 208 or the incurrence of subordinated indebtedness contemplated by Section 816;

(f) to permit the issuance of unregistered bonds or bonds registered to bearer; or

(g) to permit the issuance of Additional Bonds in "book entry" form; or

(h) with the consent of each Insurer, which consent shall not be unreasonably withheld, to comply with and to conform this Resolution to the requirements of any Insurer of a proposed Series of Additional Bonds; or

(i) to amend the Rate of Return Factor.

In determining whether any resolutions may be adopted pursuant to this Section 1101 without the consent of the Bondholders and the Insurer, the City Council shall consider the effect of such resolution on the rights of the Bondholders as if no Insurance Policy was then in effect.

Notwithstanding anything in this Section 1101 to the contrary, any provision of this Resolution or any Subsequent Resolution expressly recognizing or granting rights in or to any

Insurer may not be amended in any manner which affects the rights of such Insurer hereunder without the prior written consent of such Insurer.

Section 1102. Amending or Supplemental Resolution With Bondholders' and Insurers' Consent. Subject to the provisions contained in this Section, and not otherwise, the Insurer together with the Holders of not less than a majority in aggregate principal amount and Accreted Value (as of the interest payment date immediately preceding the date on which the notice referred to below is mailed) of the Bonds then Outstanding, shall have the right, from time to time, anything contained in this Resolution to the contrary notwithstanding, to consent to and approve the adoption of such resolution supplemental hereto as shall be deemed desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Resolution or in any supplemental resolution; provided, however, that nothing herein contained shall permit, or be construed as permitting, without the consent of all Holders of Bonds then Outstanding,

- (a) an extension of the maturity of, or an extension of the interest payment date on, any Bond;
- (b) a reduction in the principal, Maturity Amount, premium, or interest on any Bond;
- (c) the creation of a lien upon or a pledge of Revenues, amounts on deposit in the Pledged Sewer Impact Fee Account, or amounts on deposit in the Pledged Water Impact Fee Account other than the lien and pledge created by this Resolution or a lien and pledge related to subordinate obligations issued pursuant to Section 816 above;
- (d) a preference or priority of any Bond over any other Bond; or
- (e) a reduction in the aggregate principal amount and Accreted Value of the Bonds required for consent to such supplemental resolution. However, nothing herein contained shall be construed as making necessary the approval by Bondholders of the adoption of any supplemental resolution as authorized in Section 1101 of this Article.

If at any time the City shall determine that it is desirable to adopt any supplemental resolution pursuant to this Section 1102, the Chief Financial Officer shall cause notice of the proposed adoption to be mailed to the Bondholders and to the Insurer. Such notice shall briefly set forth the nature of the proposed supplemental resolution and shall state that copies thereof are on file at the office of the City Clerk for inspection by all Bondholders. The City shall not, however, be subject to any liability to any Bondholder by reason of its failure to cause the notice required by this Section to be mailed and any such failure shall not affect the validity of such supplemental resolution when consented to and approved as provided in this Section.

Whenever, at any time within one year after the date of the first mailing of such notice the City shall deliver to the City Clerk an instrument or instruments in writing purporting to be executed by the Holders of not less than a majority in aggregate principal amount and Accreted

Value (determined as of the interest payment date immediately preceding the date on which such notice was mailed) of the Bonds Outstanding at the time such notice was mailed, which instrument or instruments shall refer to the proposed supplemental resolution described in such notice and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice, thereupon but not otherwise, the City Council may adopt such supplemental resolution in substantially such form without liability or responsibility to any Holder of any Bond.

Section 1103. Consent to be Given by AMBAC. Notwithstanding any provisions of this Resolution to the contrary, any provision of this Resolution expressly recognizing or granting rights in or to AMBAC may not be amended in any manner which affects the rights of AMBAC hereunder without the prior written consent of AMABC.

Section 1104. Consent of AMBAC in Addition to Bondholder Consent. Unless otherwise provided in this Article XI, AMBAC's consent shall be required in addition to Bondholder consent, when required, for the following purposes: (i) execution and delivery of any amendment, supplement or change to or modification of this Resolution, (ii) removal of the Paying Agent and selection and appointment of any successor paying agent, and (iii) initiation or approval of any action not described in (i) or (ii) of this Section 1104 which requires Bondholder consent.

Section 1105. Supplemental Resolution Part of Resolution. Any supplemental resolution adopted in accordance with this Article and approved as to legality by the City Attorney shall thereafter form a part of this Resolution, and all of the terms and conditions contained in any such supplemental resolution as to any provision authorized to be contained therein shall be part of the terms and conditions of this Resolution for any and all purposes. In case of the adoption and approval of any supplemental resolution, express reference may be made thereof in the text of any Bonds issued thereafter.

ARTICLE XII

Defeasance

Section 1201. Cessation of Interest of Bondholders. If, (a) when any Bonds secured hereby shall have become due and payable in accordance with their terms, or shall have been duly called for redemption, or either irrevocable instructions to call such Bonds for redemption or to pay such Bonds at their respective maturities and mandatory redemption dates, if any, or any combination of such payment and redemption, shall have been given by the City to an appropriate fiduciary institution, and (b) the whole amount of the principal, Maturity Amount or Accreted Value as of the payment or redemption date, and the interest and premium, if any, due and payable upon any of the Bonds then Outstanding as of the payment or redemption date shall be paid, or (c) sufficient moneys shall be held in escrow for such purpose, or (d) the City shall have made provision for payment of the principal, Accreted Value, Maturity Amount, interest, and redemption premiums, if any, with respect to any of the Bonds, and (e) provision shall also be made for paying all other sums payable hereunder (including, but not limited to, Policy Costs)

by the City, then the right, title and interest of the Holders of such Bonds in the Pledged Revenues and all Funds and Accounts shall thereupon cease and the City in such case may apply the portion of the balances remaining in the Funds and Accounts attributable to such Bonds (other than moneys held for the redemption or payment of Bonds) to any lawful purpose. Only the deposit of Government Obligations (which Government Obligations do not contain provisions permitting the redemption thereof prior to their stated maturity date except at the option of the holder thereof) in irrevocable trust with a banking institution or trust company, for the sole benefit of the Bondholders, with respect to which Government Obligations the principal to be received, or the principal and interest to be received, will be (and has been verified by an Accountant to be) sufficient to make timely payment of the principal, Accreted Value (in the case of Compound Interest Bonds to be redeemed prior to maturity), Maturity Amount, interest, and redemption premiums, if any, on the Bonds then Outstanding (or the portion thereof proposed to be defeased hereunder) shall be considered "provision of payment" for purposes of clause (d) above.

Section 1202. Moneys Held in Trust. All moneys and obligations held by an Escrow Agent or trustee pursuant to this Section shall be held in trust and the principal and interest of said obligations when received, and said moneys shall be applied to the payment, when due, of the principal, Accreted Value, Maturity Amount, interest and premium, if any, of the Bonds so called for redemption or to be paid.

ARTICLE XIII Miscellaneous Provisions

Section 1301. Effect of Covenants. All covenants, stipulations, obligations and agreements of the City contained in this Resolution shall be deemed to be covenants, stipulations, obligations and agreements of the City and of the City Council and of each department and agency of the City, and all such covenants, stipulations, obligations and agreements shall bind or inure to the benefit of the successor or successors thereof from time to time and any officer, board, body or commission to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

Except as otherwise provided herein, all rights, powers and privileges conferred and duties and liabilities imposed upon the City or upon the City Council by the provisions of this Resolution shall be exercised or performed by the City Council, or by such other officers, board, body or commission as may be required by law to exercise such powers or to perform such duties.

No covenants, stipulation, obligation or agreement herein contained shall be deemed to be a covenant, stipulation, obligation or agreement of any member, agent or employee of the City Council in his or her individual capacity, and neither the members of the City Council nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 1302. Manner of Giving Notice to the City. Any notice, demand, direction, request or other instrument authorized or required by this Resolution to be given to or filed with the City or the City Council shall be deemed to have been sufficiently given or filed for all purposes of this Resolution if and when sent by registered mail, return receipt requested:

to the City, if addressed to the Chief Financial Officer of the City of Cocoa, City Hall, Cocoa, Florida;

to the City Council, if addressed to the Mayor of the City of Cocoa, City Hall, Cocoa, Florida.

All documents received by the Chief Financial Officer and City Clerk under the provisions of this Resolution shall be retained in their possession, subject at all reasonable times to the inspection of the City, any Bondholder, the Insurer, and the agents and representatives thereof.

Section 1303. Manner of Giving Notice to the Bondholders. Any notice, demand, direction, request, check or other instrument authorized or required by this Resolution to be mailed to the Bondholders shall be deemed to have been sufficiently mailed if mailed by certified or registered mail, postage pre-paid, to the Bondholders at their addresses as they appear on the registration books maintained by the Bond Registrar.

Section 1304. Successorship of Paying Agents. Any bank or trust company with or into which a Paying Agent may be merged or consolidated, or to which the assets and business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Resolution. If the position of a Paying Agent shall become vacant for any reason, the City Council shall, within thirty (30) days thereafter, appoint a bank or trust company located in the same City, as Paying Agent to fill such vacancy.

Section 1305. Successorship of City Officers. If the offices of Mayor, City Clerk or City Attorney shall be abolished or any two or more of such offices shall be merged or consolidated, or in the event of a vacancy in any such office by reason of death, resignation, removal from office or otherwise, or in the event any such officer shall become incapable of performing the duties of his office by reason of sickness, absence from the City or otherwise, all powers conferred and all obligations and duties imposed upon such officer shall be performed by the officer succeeding to the principal functions thereof or by the officer upon whom such powers, obligations and duties shall be imposed by law.

Section 1306. Inconsistent Resolutions. All resolutions and parts thereof, which are inconsistent with any of the provisions of this Resolution are hereby declared to be inapplicable to the provisions of this Resolution.

Section 1307. Further Acts. The officers and agents of the City are hereby authorized and directed to do all the acts and things required of them by the Bonds and this Resolution, for the full, punctual and complete performance of all of the terms, covenants, provisions and agreements contained in the Bonds and this Resolution.

Section 1308. Headings Not Part of Resolution. Any headings preceding the texts of the several Articles and Sections hereof and any table of contents, marginal notes or footnotes appended to copies hereof shall be solely for the convenience of reference, and shall not constitute a part of this Resolution, nor shall they affect its meaning, construction or effect.

Section 1309. Effect of Partial Invalidity. In case any one or more of the provisions of this Resolution or of any Bonds shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution or of the Bonds or coupons, but this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. The Bonds are issued and this Resolution is adopted with the intent that the laws of the State of Florida shall govern their construction.

Section 1310. Rights, Remedies, and Claims. Nothing in this Resolution expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the City, the Paying Agent, the Bond Registrar, each Insurer, and the Bondholders, any right, remedy or claim under or by reason of this Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Resolution contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Paying Agent, the Bond Registrar, each Insurer, and the Bondholders.

This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 18th day of August 1993.

CITY OF COCOA, FLORIDA

Attest:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney