

**CITY OF NAPLES  
PURCHASING DIVISION  
CITY HALL, 735 8<sup>TH</sup> STREET SOUTH  
NAPLES, FLORIDA 34102  
PH: 239-213-7100 FX: 239-213-7105**

**ADDENDUM NUMBER 2**

NOTIFICATION DATE:	BID TITLE:	BID NUMBER:	BID OPENING DATE & TIME:
02/03/14	FINANCIAL ADVISORY SERVICES	14-022	02/13/14 3:00 PM

**THE FOLLOWING INFORMATION IS HEREBY INCORPORATED INTO,  
AND MADE AN OFFICIAL PART OF THE ABOVE REFERENCED BID.**

The following clarifications are issued as an addendum for the referenced solicitation:

Below is a response to a submitted written question.

- **How long does the City want borrow the funds needed for the “water sewer line extension” mentioned in the “Future Plans” section of the RFP?**

**Answer:** The City may want this for up to 20 years.

- **Can you provide us with a copy of the “Master Resolution”, Resolution No. 07-11868, and also Resolution No. 07-11869?**

**Answer:** Please find resolutions below.

**RESOLUTION NO. 07-11868**

A RESOLUTION OF THE CITY OF NAPLES, FLORIDA AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$10,000,000 PUBLIC UTILITIES REVENUE BOND, SERIES 2007A TO FINANCE THE COST OF CERTAIN WATER AND SEWER CAPITAL PROJECTS AND TO PAY COSTS RELATED THERETO AND NOT TO EXCEED \$6,100,000 PUBLIC UTILITIES REFUNDING REVENUE BOND, SERIES 2007B TO REFUND CERTAIN INDEBTEDNESS AND TO PAY COSTS RELATED THERETO; PLEDGING CERTAIN NET REVENUES, SEWER SYSTEM DEVELOPMENT CHARGES AND WATER SYSTEM DEVELOPMENT CHARGES OF THE PUBLIC UTILITIES SYSTEM FOR THE PAYMENT OF SUCH BONDS; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SUCH BONDS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

SECTION 1. Authority for Resolution. This Resolution is adopted pursuant to the provisions of the Constitution of the State of Florida, Chapter 166, Part II, Florida Statutes, Chapter 1598, Laws of Florida, Acts of 1959, as amended, being the municipal charter of the Issuer, and other applicable provisions of law (collectively, the "Act").

SECTION 2. Definitions. Unless the context otherwise requires, the terms used in this Resolution shall have the meanings specified in this Section 2. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

"Accreted Value" shall mean, as of any date of computation with respect to any Capital Appreciation Bond, an amount equal to the principal amount of such Capital Appreciation Bond (the principal amount at its initial offering) plus the interest accrued on such Capital Appreciation Bond from the date of delivery to the original purchasers thereof to the Interest Date next preceding the date of computation or the date of computation if an Interest Date, such interest compounded semiannually, plus, with respect to matters related to the payment upon redemption of the Capital Appreciation Bonds, if such date of computation shall not be an Interest Date, a portion of the difference between the Accreted Value as of the immediately preceding Interest Date and the Accreted Value as of the immediately succeeding Interest Date,

calculated based on the assumption that Accreted Value accrues during any semi-annual period in equal daily amounts on the basis of a 360-day year.

"Acquired Obligations" shall mean cash, direct non-callable obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, Refcorp interest strips, CATS, TIGRS, STRPS, defeased municipal bonds rated AAA by S&P or Aaa by Moody's (or any combination thereof) or direct obligations or fully guaranteed certificates of beneficial ownership of the U.S. Export-Import Bank, certificates of beneficial ownership of the Farmers Home Administration, obligations of the Federal Financing Bank, participation certificates of the General Services Administration, Guaranteed Title XI financings of the U.S. Maritime Administration and project notes of the U.S. Department of Housing and Urban Development.

With respect to any Series of Bonds, the definition of Acquired Obligations set forth above may be further limited as set forth in a Supplemental Resolution of the Issuer adopted prior to the issuance of such Bonds.

"Additional Parity Obligations" shall mean additional obligations issued or incurred in compliance with the terms, conditions and limitations contained herein and which (i) shall have a lien on the Pledged Revenues equal to that of the Outstanding Bonds and any Parity Contract Obligations, (ii) shall be payable from the Pledged Revenues on a parity with the Outstanding Bonds and any Parity Contract Obligations, and (iii) shall rank equally in all other respects with the Outstanding Bonds and any Parity Contract Obligations.

"Amortization Installment" shall mean an amount designated as such by Supplemental Resolution of the Issuer and established with respect to any Term Bonds.

"Average Annual Bond Service Requirement" shall mean, as of each date on which a Series of Bonds is issued, the total amount of Bond Service Requirement which is to become due on all Bonds deemed to be Outstanding immediately after the issuance of such Series of Bonds divided by the total number of years for which Bonds are deemed to be Outstanding, except that with respect to any Bonds for which Amortization Installments have been established, the amount of principal coming due on the final maturity date with respect to such Bonds shall be reduced by the aggregate principal amount of such Bonds that are to be redeemed from Amortization Installments to be made in prior Bond Years.

"Bond Counsel" shall mean Bryant Miller Olive P.A., or any other attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the exclusion from gross income for federal income tax purposes of interest on obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

"Bond Insurance Policy" shall mean the municipal bond new issue insurance policy or policies issued by an Insurer guaranteeing the scheduled payment of principal of and interest on any portion of such Series of Bonds when due as determined by Supplemental Resolution, if any.

"Bond Service Fund" shall mean the Bond Service Fund created and established pursuant to Section 16 of this Resolution.

"Bond Service Requirement" shall mean, for any Bond Year, at any time, the amount required to be deposited in such Bond Year into the Bond Service Fund, as provided herein including any Reimbursement Obligations. In calculating such amount, the Issuer shall subtract therefrom any amounts to be transferred from the Project Fund for the purpose of paying interest on the Bonds. With respect to Variable Rate Bonds which are not subject to a Qualified Agreement, if any, the interest rate used to calculate the Bond Service Requirement shall be the higher of (i) the actual rate on the date of calculation, or if the indebtedness is not yet outstanding, the initial rate (if established and binding), (ii) if the indebtedness has been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, and (iii) if the indebtedness has been outstanding for twelve months or less, (1) if interest on the indebtedness is excludable from gross income under the applicable provisions of the Internal Revenue Code, the most recently published Bond Buyer 25 Bond Revenue Index (or comparable index if no longer published) plus fifty (50) basis points, or (2) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities plus fifty (50) basis points; provided, however, that for purposes of any rate covenant measuring actual debt service coverage during a test period, Variable Rate Bonds which are not subject to a Qualified Agreement shall be deemed to bear interest at the actual rate per annum applicable during the test period. If Bonds are Option Bonds, the date or dates of tender shall be disregarded, unless actually tendered and not remarketed, and the stated maturity dates thereof shall be used for purposes of this calculation. If the Issuer has entered into a Qualified Agreement with respect to certain Variable Rate Bonds Outstanding hereunder or to be issued hereunder, the interest coming due on such Variable Rate Bonds for purposes of this definition shall be deemed to be based upon the synthetic fixed interest rate under the Qualified Agreement, without giving any regards to fees and expenses incurred in connection with the purchase of a liquidity facility.

"Bond Year" shall mean the period commencing on September 2 of the preceding year and ending twelve months later on September 1.

"Bonds" shall mean (i) the Series 2007A Bond and the Series 2007B Bond herein authorized to be issued, and (ii) any Additional Parity Obligations issued hereafter in accordance with the provisions hereof.

"Capital Appreciation Bonds" shall mean the aggregate principal amount of the Bonds that bear interest payable solely at maturity or upon redemption prior to maturity in the amounts determined by reference to the Accreted Value, all as shall be determined by

Supplemental Resolution of the Issuer. In the case of Capital Appreciation Bonds that are convertible to Bonds with interest payable prior to maturity or redemption of such Bonds, such Bonds shall be considered Capital Appreciation Bonds only during the period of time prior to such conversion.

"Capital Appreciation Income Bonds" shall mean those Bonds initially issued as Capital Appreciation Bonds and which become Serial Bonds when the original issue amount and the Accreted Value equals \$5,000 principal amount or an integral multiple thereof as determined by Supplemental Resolution of the Issuer.

"City Attorney" shall mean the City Attorney of the Issuer, or any assistant, acting or interim City Attorney.

"City Clerk " shall mean the City Clerk of the Issuer, or any assistant or deputy City Clerk.

"City Council" shall mean the City Council of the Issuer.

"City Manager" shall mean the City Manager of the Issuer, or any assistant or deputy City Manager.

"Consulting Engineers" shall mean one or more independent, qualified and recognized consulting engineers or firm of consulting engineers having favorable repute, skill and experience with respect to the planning and operation of the System who shall be retained from time to time by the Issuer.

"Contributions in Aid of Construction" shall mean any amount or item of money, services, or property received by the Issuer, any portion of which is provided at no cost to the System, which represents an addition or transfer to the capital of the System, and which is utilized to offset the acquisition, improvement or construction costs of the System.

"Cost of Operation and Maintenance" of the System shall mean the then current expenses, paid or accrued, in the operation, maintenance and repair of the System, as calculated in accordance with generally accepted accounting principles, including, but not limited to, general administrative and indirect labor costs, personal services, contractual services, repairs and maintenance, and materials and supplies, but shall not include expenses not annually recurring, any reserve for renewals and replacements, extraordinary repairs or any allowance for depreciation, any Bond Service Requirement, any payments in lieu of taxes, franchise fees or other transfers.

"Credit Facility" or "Credit Facilities" shall mean either individually or collectively, as appropriate, any bond insurance policy, surety bond, letter of credit, line of credit, guaranty or other instrument or instruments that would enhance the credit of the Bonds.

"Credit Facility Issuer" or "Credit Facility Issuers" shall mean the provider or providers of a Credit Facility or Credit Facilities.

"Expansion Percentage" with respect to the Sewer System shall mean that number, expressed as a percentage, which represents that portion of the total cost of any Project or Projects financed from the proceeds of a particular Series of Bonds which is attributable to any improvements, extensions and additions to the Sewer System, together with all lands or interest therein, including plants, buildings, machinery, franchises, pipes, mains, fixtures, equipment and all property real or personal, tangible or intangible, heretofore or hereafter constructed or acquired in order to meet the increased demand upon the Sewer System, whether actual or anticipated, created by new users connecting to the Sewer System, as shall be determined by the Consulting Engineers and set forth in a certificate relating to such Project.

"Expansion Percentage" with respect to the Water System shall mean that number, expressed as a percentage, which represents that portion of the total cost of any Project or Projects financed from the proceeds of a particular Series of Bonds which is attributable to any improvements, extensions and additions to the Water System, together with all lands or interest therein, including plants, buildings, machinery, franchises, pipes, mains, fixtures, equipment and all property real or personal, tangible or intangible, heretofore or hereafter constructed or acquired in order to meet the increased demand upon the Water System, whether actual or anticipated, created by new users connecting to the Water System, as shall be determined by the Consulting Engineers and set forth in a certificate relating to such Project.

"Federal Securities" shall mean direct obligations of the United States of America and obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, none of which permit redemption prior to maturity at the option of the obligor. Federal Securities shall also include direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities and the interest component of Resolution Funding Corp. (REFCORP) strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form.

With respect to any Series of Bonds, the definition of Federal Securities set forth above may be further limited as set forth in a Supplemental Resolution of the Issuer adopted prior to the issuance of such Bonds.

"FDEP" shall mean the Florida Department of Environmental Protection.

"FDEP Loans" shall mean (i) the State Revolving Fund Construction Loan Agreement CS120712060 and Amendment R to State Revolving Fund Preconstruction Loan Agreement CS12071205P between the Issuer and FDEP dated June 7, 1996, (ii) the Clean Water State Revolving Fund Construction Loan Agreement SW120712070 and Amendment 1 to Loan Agreement SW120712070 between the Issuer and FDEP dated June 30, 1999, (iii) Drinking Water State Revolving Fund Construction Loan Agreement DW1102010 and Amendment 1 to Drinking Water State Revolving Fund Construction Loan Agreement DW1102010 dated June 6,

2003, and (iv) and other loan agreements hereafter entered into between the Issuer and FDEP which constitutes Subordinate Debt hereunder.

"Finance Director" shall mean the Finance Director of the Issuer, or in his or her absence, the Comptroller of the Issuer.

"Financial Advisor" shall mean RBC Dain Rauscher Inc. doing business under the name RBC Capital Markets, or any other financial advisor appointed from time to time by the Issuer.

"Fiscal Year" shall mean the period commencing on October 1 of each year and ending on the next succeeding September 30 or such other annual period as may be prescribed by law from time to time for the Issuer.

"Fitch" shall mean Fitch Ratings, and any assigns or successors thereto.

"Gross Revenues" or "Revenues" shall mean all income and earnings received by the Issuer or accrued to the Issuer from the ownership, use or operation of the System and all parts thereof, including, without limitation, unencumbered, non-ad valorem special assessments which are not pledged for the repayment of, or as security for, any indebtedness of the Issuer, whether currently outstanding or hereafter issued, other than the Bonds, and which are legally available to be used as contemplated hereunder, moneys deposited from the Rate Stabilization Fund into the Revenue Fund in accordance with the terms hereof, provided any moneys transferred from the Rate Stabilization Fund into the Revenue Fund within 90 days following the end of a Fiscal Year may be designated by the Issuer as Gross Revenues of such prior Fiscal Year, and shall also include investment income, if any, earned on any fund or account created pursuant to this Resolution, except the Rebate Fund, all as calculated in accordance with generally accepted accounting principles, and any payment received by the Issuer as contemplated in Section 26 hereof, but "Gross Revenues" or "Revenues" shall not include non-ad valorem special assessments which are pledged for the repayment of, or as security for, any indebtedness of the City, whether currently outstanding or hereafter issued, other than the Bonds, proceeds from the sale or other disposition of the System or any part thereof, condemnation awards or proceeds of insurance received with respect to the System and moneys deposited to the Rate Stabilization Fund from the Surplus Fund, including any moneys transferred from the Surplus Fund to the Rate Stabilization Fund within 90 days following the end of a Fiscal Year which the Issuer determines not to be Gross Revenues of such prior Fiscal Year, Contributions in Aid of Construction, Sewer System Development Charges, Water System Development Charges, or unrealized gains or losses from investments.

"Holder" or "Bondholders" or "Owner" or any similar term shall mean any persons who shall be the registered owner of any outstanding Bonds.

"Insurer" shall mean, with respect to any Series of Bonds, such Person as shall be insuring or guaranteeing the scheduled payment of principal of and interest on such Series of Bonds, when due.

"Interest Account" shall mean the special account of the same name created within the Bond Service Fund.

"Interest Date" or "interest payment date" shall be such date or dates for the payment of interest on a Series of Bonds as shall be provided in Section 6 hereof.

"Issuer" shall mean the City of Naples, Florida.

"Maximum Bond Service Requirement" shall mean, as of any particular date of calculation, the greatest amount of aggregate Bond Service Requirement for the then current or any future Bond Year, except that with respect to any Bonds for which Amortization Installments have been established, the amount of principal coming due on the final maturity date with respect to such Bonds shall be reduced by the aggregate principal amount of such Bonds that are to be redeemed from Amortization Installments which were to be made in prior Bond Years.

"Mayor" means the Mayor (or Vice Mayor) of the Issuer or such other person as may be duly authorized by the City Council to act on his or her behalf.

"Moody's" or "Moody's Investors Service" shall mean Moody's Investors Service, Inc., and any assigns or successors thereto.

"Net Revenues" of the System shall mean the Gross Revenues or Revenues, after deduction of the Cost of Operation and Maintenance.

"Option Bonds" shall mean Bonds subject to tender for payment prior to their maturity at the option of the Holder thereof.

"Outstanding" or "Bonds Outstanding" shall mean all Bonds which have been issued pursuant to this Resolution, except:

(i) Bonds canceled after purchase in the open market or because of payment at or redemption prior to maturity;

(ii) Bonds for the payment or redemption of which cash funds or Acquired Obligations or any combination thereof shall have been theretofore irrevocably set aside in a special account with an escrow agent (whether upon or prior to the maturity or redemption date of any such Bonds) in an amount which, together with earnings on such Acquired Obligations, will be sufficient to pay the principal of, interest on and any redemption premium with respect to such Bonds at maturity or upon their earlier redemption; provided that, if such Bonds are to be redeemed before the maturity thereof, notice of such redemption shall have been given according to the requirements of this Resolution or irrevocable instructions directing the timely publication of such notice and directing the payment of the principal of and interest on all such Bonds at such redemption dates shall have been given; and



(iii) Bonds which are deemed paid pursuant to this Resolution or in lieu of which other Bonds have been issued under Sections 11 and 13 hereof.

"Parity Contract Obligation" shall mean an obligation designated as such in accordance with the requirements of Section 26 hereof.

"Parity Contract Obligation Account" shall mean the special account of the same name created within the Bond Service Fund.

"Paying Agent" shall mean any paying agent for Bonds appointed by or pursuant to a Supplemental Resolution and its successors or assigns, and any other Person which may at any time be substituted in its place pursuant to a Supplemental Resolution. Once appointed, no resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of Paying Agent. Each of the Insurers of Bonds, if any, shall be furnished with written notice of the resignation or removal of the Paying Agent and the appointment of any successor thereto.

"Permitted Investments" shall mean investments permitted by applicable law and the Issuer's written investment policy, if any, as may be further limited as set forth in a Supplemental Resolution of the Issuer.

"Person" shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization or governmental entity.

"Pledged Revenues" shall mean (i) the Net Revenues of the System, (ii) the Sewer System Development Charges, (iii) the Water System Development Charges, and (iv) until applied in accordance with this Resolution, the moneys on deposit in the various funds and accounts created pursuant to this Resolution, except (A) as for the Rebate Fund, (B) to the extent moneys therein shall be required to pay the Cost of Operation and Maintenance in accordance with the terms hereof, and (C) to the extent moneys on deposit in a subaccount of the Reserve Fund or the Project Fund shall be pledged solely for the payment of the Series of Bonds for which it was established in accordance with the provisions hereof.

"Principal Account" shall mean the special account of the same name created within the Bond Service Fund.

"Project" or "Projects" shall mean any actual, proposed or potential acquisition, addition, extension, supplement, or replacement of the System or joint ownership of similar properties or any interest therein or any right to use the capacity from any facilities or services thereof, or any other lawful purpose related to the System, all as determined by the Issuer and in accordance with plans and specifications on file or to be filed with the Issuer.

"2007A Project" shall mean the Project authorized to be financed with the proceeds of the Series 2007A Bond, consisting of the design, permitting, acquisition, construction and reconstruction of water and sewer capital projects.

"Project Costs" shall mean all costs authorized to be paid from the Project Fund pursuant to Section 18 hereof to the extent permitted under the laws of the State. It is intended that this definition be broadly construed to encompass all costs, expenses and liabilities of the Issuer related to the System which on the date of this Resolution or in the future shall be permitted to be funded with the proceeds of any Series of Bonds pursuant to the laws of the State.

"Project Fund" shall mean the Project Fund created and established pursuant to Section 16 of this Resolution.

"Prudent Utility Practice" shall mean, in respect of any particular municipal utility industry, any of the practices, methods and acts which, in the exercise of reasonable judgment, in light of the facts, including but not limited to the practices, methods and acts engaged in or approved by a significant portion of such utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. It is recognized that Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is a spectrum of possible practices, methods or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition.

"Qualified Agreement" means, to the extent from time to time permitted pursuant to law, any contract or contracts entered into in connection with Bonds under which payments are, in whole or in part, based on interest rate, cashflow, or other basis desired by the Issuer, including, without limitation, contracts commonly known as current or forward interest rate swap or swaption agreements and interest rate floors or caps. Notwithstanding anything herein to the contrary, "Qualified Agreement" shall not include goods and service supply contracts.

"Qualified Agreement Provider" means, an entity whose senior long term obligations, other senior long term obligations or claims paying ability or whose payment obligations under a Qualified Agreement are guaranteed by an entity whose senior long term debt obligations, other senior unsecured long term obligations or claims paying ability are rated at the time of execution of such Qualified Agreement either (i) at least as high as A3 by Moody's, and A- by S&P, or the equivalent thereof by any successor thereto for so long as such rating agency is then maintaining a rating on the Bonds Outstanding, or (ii) any such lower rating categories which each such rating agency then maintaining a rating on the Bonds Outstanding indicates in writing to the Issuer will not, by itself, result in a reduction or withdrawal of its rating on the Bonds Outstanding that is in effect prior to entering into such Qualified Agreement.

"Qualified Independent Consultant" shall mean one or more qualified and recognized independent consultants, having favorable repute, skill and experience with respect to the acts and duties of the Qualified Independent Consultant to be provided to the Issuer, as shall from time to time be retained by the Issuer to perform the acts and carry out the duties herein provided for such consultants.

"Rate Stabilization Fund" shall mean the "Rate Stabilization Fund" established pursuant to Section 16 of this Resolution.

"Rebate Fund" shall mean the Rebate Fund created pursuant to Section 29 of this Resolution.

"Record Date" shall mean each date that is 15 days prior to an interest payment date on the Bonds.

"Redemption Account" shall mean the special account of the same name created within the Bond Service Fund.

"Refunding Bonds" shall mean that amount of any Series of Bonds, the proceeds of which will be applied to the refunding of any previously issued Bonds.

"Registrar" shall mean any registrar for the Bonds appointed by or pursuant to Supplemental Resolution and its successors and assigns, and any other Person which may at any time be substituted in its place pursuant to Supplemental Resolution. Once appointed, no resignation or removal of the Registrar shall become effective until a successor has been appointed and has accepted the duties of Registrar. The Insurers of Bonds shall be furnished with written notice of the resignation or removal of the Registrar and the appointment of any successor thereto.

"Reimbursement Obligation" shall have the meaning set forth in Section 27 hereof.

"Renewal, Replacement and Improvement Fund" shall mean the Renewal, Replacement and Improvement Fund created and established pursuant to Section 16 of this Resolution.

"Reserve Fund" shall mean the Reserve Fund created and established pursuant to Section 16 of this Resolution.

"Reserve Fund Insurance Policy" shall mean an insurance policy or surety bond deposited in the Reserve Fund in lieu of or in substitution for cash on deposit therein pursuant to Section 20(B)(2) hereof.

"Reserve Fund Letter of Credit" shall mean an unconditional irrevocable letter of credit or line of credit (other than a Reserve Fund Insurance Policy) deposited in the Reserve Fund in lieu of or in substitution for cash on deposit therein pursuant to Section 20(B)(2) hereof.

"Reserve Requirement" shall be the lesser of (i) the Maximum Bond Service Requirement (provided, however, the Bond Service Requirement calculation for this purpose shall not include debt service relating to the Series 2007A Bond or the Series 2007B Bond), (ii) 125% of the Average Annual Bond Service Requirement (provided, however, the Bond Service Requirement calculation for this purpose shall not include debt service relating to the Series 2007A Bond or the Series 2007B Bond), or (iii) the largest amount as shall not adversely affect the exclusion of

interest on the Bonds (other than the Series 2007A Bond and the Series 2007B Bond) from the gross income for Federal income tax purposes; provided, however, the Issuer may establish by Supplemental Resolution a different Reserve Requirement for a subaccount of the Reserve Fund which secures a Series of Bonds pursuant to Section 20(B)(2) hereof.

"Resolution" shall mean this Resolution, as from time to time may be amended or supplemented by Supplemental Resolution, in accordance with the terms hereof.

"Revenue Fund" shall mean the Revenue Fund created and established pursuant to Section 16 of this Resolution.

"Serial Bonds" shall mean all of the Bonds other than Term Bonds.

"Series" or "Series of Bonds" or "Bonds of a Series" shall mean all Bonds designated as being of the same Series issued and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter delivered in lieu thereof or in substitution therefor pursuant to this Resolution.

"Series 2007A Bond" shall mean the Issuer's Public Utilities Revenue Bond, Series 2007A, the proceeds of which will be applied to finance the cost of the 2007A Project, and to pay costs of issuing the Series 2007A Bond.

"Series 2007B Bond" shall mean the Issuer's Public Utilities Refunding Revenue Bond, Series 2007B, the proceeds of which will be applied to refund the Series 2005 Note, and to pay costs of issuing the Series 2007B Bond.

"Series 2005 Note" shall mean all of the Issuer's Capital Improvement Revenue Note, Series 2005.

"Sewer System" shall mean the complete sanitary sewer, wastewater and reclaimed water system now owned, operated and maintained by the Issuer and which the Issuer is, or shall be responsible for maintaining, together with any and all acquisitions, improvements, extensions and additions thereto, hereafter constructed or acquired, together with all lands or interests therein, including plants, buildings, machinery, franchises, pipes, mains, fixtures, equipment and all property, real or personal, tangible or intangible (including agreements for the providing of such services), now or hereafter constructed and/or owned or used in connection therewith.

"Sewer System Development Charges" shall mean the impact fees, if any, imposed by the Issuer upon and collected from new users of the Sewer System which represent a pro rata share of the costs of the Sewer System which are attributable to the increased demand such additional connections create upon the Sewer System. With respect to each Series of Bonds, the term "Sewer System Development Charges" in each year shall not include any amounts in excess of the Bond Service Requirement for such Series of Bonds for such Bond Year multiplied by the Expansion Percentage for the Sewer System.

"Sewer System Development Charges Fund" shall mean the Sewer System Development Charges Fund created and established pursuant to Section 16 of this Resolution.

"State" shall mean the State of Florida.

"Standard & Poor's" or "Standard & Poor's Corporation" or "S&P" shall mean Standard and Poor's Ratings Group and any assigns and successors thereto.

"Stormwater System" shall mean the complete stormwater system now owned, operated and maintained by the Issuer or which is proposed to be acquired by and operated and maintained by the Issuer and which the Issuer is, or shall be responsible for maintaining, together with any and all acquisitions, improvements, extensions and additions thereto, hereafter constructed or acquired, together with all lands or interests therein, including plants, buildings, machinery, franchises, pipes, mains, fixtures, equipment and all property, real or personal, tangible or intangible (including agreements for the providing of such services), now or hereafter constructed and/or owned or used in connection therewith.

"Subordinated Debt" shall mean any obligations payable on a junior, inferior and subordinate basis under Section 20(B) hereof. "Subordinated Debt" shall include, but shall not be limited to, (i) the FDEP Loans, (ii) Subordinated Contract Obligations, (iii) payments to a Qualified Agreement Provider pursuant to a Qualified Agreement which the Issuer has designated as Subordinated Debt, (iv) Reimbursement Obligations, and (v) any other obligations payable from any of the Pledged Revenues on a junior, inferior and subordinate basis to the Bonds.

"Subordinated Debt Service Fund" shall mean the Subordinated Debt Service Fund created and established pursuant to Section 16 of this Resolution.

"Supplemental Resolution" shall mean any resolution of the Issuer amending or supplementing this Resolution adopted and becoming effective in accordance with the terms of Sections 22 and 23 hereof.

"Surplus Fund" shall mean the Surplus Fund created and established pursuant to Section 16 of this Resolution.

"System" or "Utility System" shall mean, collectively, the Water System, the Sewer System and the Stormwater System of the Issuer.

"Term Bonds" shall mean the Bonds other than Serial Bonds which shall be stated to mature on one date, and shall have such Amortization Installments, as shall be determined by Supplemental Resolution of the Issuer.

"Variable Rate Bonds" shall mean obligations issued with a variable, adjustable, convertible or other similar rate which is not fixed in percentage at the date of issue for the entire term thereof as shall be determined by Supplemental Resolution of the Issuer.

"Water System" shall mean the complete water system now owned, operated and maintained by the Issuer or which is proposed to be acquired by and operated and maintained by the Issuer and which the Issuer is, or shall be responsible for maintaining, together with any and all acquisitions, improvements, extensions and additions thereto, hereafter constructed or acquired, together with all lands or interests therein, including plants, buildings, wells, machinery, franchises, pipes, mains, fixtures, equipment and all property, real or personal, tangible or intangible (including agreements for the providing of such services), now or hereafter constructed and/or owned or used in connection therewith.

"Water System Development Charges" shall mean the impact fees, if any, imposed by the Issuer upon and collected from new users of the Water System which represent a pro rata share of the costs of the Water System which are attributable to the increased demand such additional connections create upon the Water System. With respect to each Series of Bonds, the term "Water System Development Charges" in each year shall not include any amounts in excess of the Bond Service Requirement for such Series of Bonds for such Bond Year multiplied by the Expansion Percentage for the Water System.

"Water System Development Charges Fund" shall mean the Water System Development Charges Fund created and established pursuant to Section 16 hereof.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms shall refer to this Resolution; the term "heretofore" shall mean before the date of adoption of this Resolution; and the term "hereafter" shall mean after the date of adoption of this Resolution.

Words importing the masculine gender include every other gender. Words importing the singular number include the plural number, and vice versa.

SECTION 3. Findings. It is hereby ascertained, determined and declared that:

(A) The Issuer currently owns, operates and maintains the System and derives certain revenue from rates, fees, rentals and other charges made and collected for the services of such System, which such revenues are not now pledged or encumbered in any manner except to the FDEP Loans.

(B) The Issuer has determined that it is in the best interest of the health and welfare of the residents of the Issuer and other users of the System to issue the Series 2007A Bond to finance the 2007A Project and to issue the 2007B Bond to currently refund the Series 2005 Note, as more particularly described herein.

(C) The costs associated with issuance of the Series 2007A Bond and the Series 2007B Bond shall be deemed to include, but not limited to, legal and financial advisory fees and expenses, engineering expenses, fiscal expenses, underwriting fees and expenses, rating agency fees, expenses for estimates of costs and of revenues, accounting expenses, municipal bond insurance premiums, surety policy premiums, if applicable, costs of printing, fees and expenses for the paying agent and registrar, accrued and capitalized interest, if any, provisions for

reserves, and such other fees and expenses as may be necessary or incidental for the financing herein authorized.

(D) Any Series of Bonds, after the issuance of the Series 2007A Bond and the Series 2007B Bond, shall be issued upon approval by Supplemental Resolution of the Issuer and compliance with the terms hereof. The proceeds of any Series of Bonds shall be applied as provided in a Supplemental Resolution.

(E) The principal of and interest and redemption premium on the Series 2007A Bond and the Series 2007B Bond and all reserve and other payments contemplated hereunder shall be payable solely from the Pledged Revenues. The Issuer shall never be required to levy ad valorem taxes on any real or personal property therein to pay the principal of and interest on the Bonds herein authorized or to make any other payments provided for herein. The Bonds shall not constitute a lien upon any properties owned by or located within the boundaries of the Issuer or upon any property other than the Pledged Revenues. Neither the taxing power, ad valorem tax revenues nor the full faith and credit of the Issuer are or shall ever be pledged to secure payment of the principal of or interest on the Bonds.

(F) The Pledged Revenues should be sufficient to pay all principal of and interest and redemption premium on the Series 2007A Bond and the Series 2007B Bond to be issued hereunder, as the same become due, the FDEP Loans, and to make all required deposits or payments required by this Resolution.

SECTION 4. Authorization of the Current Refunding of Series 2005 Note and 2007A Project. The current refunding of the Series 2005 Note, and the 2007A Project are hereby authorized.

SECTION 5. This Resolution to Constitute Contract. In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Holders. The covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the legal Holders of any and all of the Bonds, all of which shall be of equal rank and without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided therein and herein.

SECTION 6. Authorization of Bonds. Subject and pursuant to the provisions hereof, obligations of the Issuer to be known as "Public Utilities Revenue Bonds" which may be issued from time to time are hereby authorized to be issued. The aggregate principal amount of the Bonds which may be executed and delivered under this Resolution is not limited except as is or may hereafter be provided in this Resolution or as limited by the Act or by law.

The Bonds may, if and when authorized by the Issuer pursuant to this Resolution, be issued in one or more Series, with such further appropriate particular designations added to or incorporated in such title for the Bonds of any particular Series as the Issuer may determine and

as may be necessary to distinguish such Bonds from the Bonds of any other Series. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

The Bonds shall be issued for such purpose or purposes; shall bear interest at such rate or rates not exceeding the maximum rate permitted by law; and shall be payable in lawful money of the United States of America on such dates; all as determined herein or by Supplemental Resolution of the Issuer.

The Bonds shall be issued in such denominations and such form, whether coupon or registered; shall be dated such date; shall bear such numbers; shall be payable at such place or places; shall contain such redemption provisions; shall have such Paying Agents and Registrars; shall mature in such years and amounts; and the proceeds shall be used in such manner; all as determined by Supplemental Resolution of the Issuer, and, in the case of the Series 2007A Bond and the Series 2007B Bond, by Section 7 hereof. The Issuer may issue Bonds which may be secured by a Credit Facility or by a Bond Insurance Policy all as shall be determined by Supplemental Resolution of the Issuer.

#### SECTION 7. Description of the Series 2007A Bond and the Series 2007B Bond.

The Series 2007A Bond and the Series 2007B Bond are hereby authorized to be issued in the aggregate principal amounts of not to exceed \$10,000,000 and \$6,100,000, respectively, with further details provided in a Supplemental Resolution prior to their delivery. The final maturity for the Series 2007A Bond shall be no later than September 1, 2027. The final maturity for the Series 2007B Bond shall be no later than September 1, 2027.

The Series 2007A Bond and the Series 2007B Bond shall be issued hereunder in fully registered form without coupons; may be Capital Appreciation Bonds, Serial Bonds or Term Bonds; shall be dated; shall be numbered consecutively from one upward in order of maturity preceded by the letter "R" if Serial Bonds or Term Bonds, and preceded by the letters "CABR" if Capital Appreciation Bonds; shall be in the denomination of \$1 each, or integral multiples thereof for the Serial Bonds and Term Bonds, and in \$5,000 Accreted Values at maturity for the Capital Appreciation Bonds or in \$5,000 multiples thereof, or such other denominations as shall be approved by the Issuer in a Supplemental Resolution prior to the delivery of such Bonds shall bear interest at such rate or rates not exceeding the maximum rate allowed by State law, the actual rate to be approved by the governing body of the Issuer prior to or upon the sale of such Bonds; such interest to be payable semiannually at such times as are fixed by Supplemental Resolution of the Issuer if Serial Bonds or Term Bonds or payable at maturity if Capital Appreciation Bonds, and shall mature annually on such date in such years and such amounts as will be fixed by Supplemental Resolution of the Issuer prior to or upon the sale of such Bonds, and may be issued with variable, adjustable, convertible or other rates with original issue discounts and as zero coupon bonds; all as the Issuer shall provide herein or hereafter by Supplemental Resolution.



Each Serial or Term Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated, unless authenticated on an interest payment date, in which case it shall bear interest from such interest payment date, or, unless authenticated prior to the first interest payment date, in which case it shall bear interest from its date; provided, however, that if at the time of authentication, payment of any interest which is due and payable has not been made, such Serial or Term Bond shall bear interest from the date to which interest shall have been paid.

Each Capital Appreciation Bond shall bear interest only at maturity or upon redemption prior to maturity in the amount determined by reference to the Accreted Value.

The principal of and the interest and redemption premium, if any, on such Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. The interest on the Serial or Term Bonds shall be payable by the Paying Agent on each interest payment date, or the first business day following an interest payment date if such interest payment date is not a business day, to the person appearing on the registration books of the Issuer hereinafter provided for as the registered Holder thereof, by check or draft mailed to such registered Holder at his address as it appears on such registration books or by wire transfer to Holders of \$250,000 or more in principal amount of such Bonds. Payment of the principal of all Serial or Term Bonds (reduced by any Amortization Installments previously paid by the Issuer on any Term Bonds) and the Accreted Value with respect to the Capital Appreciation Bonds shall be made upon the presentation and surrender of such Bonds as the same shall become due and payable.

As long as any such Bonds are outstanding in book-entry form, the provisions of this Resolution inconsistent with such system of book-entry registration shall not be applicable to such Bonds, and the Issuer covenants to cause adequate records to be kept with respect to the ownership of any Series of Bonds issued in book-entry form or the beneficial ownership of bonds issued in the name of a nominee.

SECTION 8. Execution of Bonds. The Bonds shall be signed by, or bear the facsimile signature of the Mayor and shall be attested by, or bear the facsimile signature of, the City Clerk, shall be approved as to form and correctness by the City Attorney, and a facsimile of the official seal of the Issuer shall be imprinted on the Bonds.

In case any officer whose signature or a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such Person remained in office until such delivery. Any Bond may bear the facsimile signature of or may be signed by such persons who, at the actual time of the execution of such Bond, shall be the proper officers to sign such Bonds although, at the date of such Bond, such persons may not have been such officers.

SECTION 9. Authentication of Bonds. Only such of the Bonds as shall have endorsed thereon a certificate of authentication substantially in the form hereinbelow set forth, duly executed by the Registrar, as authenticating agent, shall be entitled to any benefit or security under this Resolution. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Registrar, and such certificate of the Registrar upon any such Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Resolution. The Registrar's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication of all of the Bonds that may be issued hereunder at any one time.

SECTION 10. Exchange of Bonds. Any Bonds, upon surrender thereof at the designated corporate trust office of the Registrar, together with an assignment duly executed by the Bondholder or his attorney or legal representative in such form as shall be satisfactory to the Registrar, may, at the option of the Bondholder, be exchanged for an aggregate principal amount of Bonds of the same Series equal to the principal amount of the Bond or Bonds so surrendered.

The Registrar shall make provision for the exchange of Bonds at the designated corporate trust office of the Registrar.

SECTION 11. Negotiability, Registration and Transfer of Bonds. The Registrar shall keep books for the registration of and for the registration of transfers of Bonds as provided in this Resolution. The transfer of any Bonds may be registered only upon such books and only upon surrender thereof to the Registrar together with an assignment duly executed by the Bondholder or his attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon any such registration of transfer, the Issuer shall execute and the Registrar shall authenticate and deliver in exchange for such Bond, a new Bond or Bonds registered in the name of the transferee, and in an aggregate principal amount equal to the principal amount of such Bond or Bonds so surrendered and of the same Series.

In all cases in which Bonds shall be exchanged, the Issuer shall execute and the Registrar shall authenticate and deliver, at the earliest practicable time, a new Bond or Bonds of the same type (e.g., Serial Bonds will be exchanged for Serial Bonds and Capital Appreciation Bonds will be exchanged for Capital Appreciation Bonds) and of the same Series in accordance with the provisions of this Resolution. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Registrar. The Issuer or the Registrar may make a charge for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made to any Bondholder for the privilege of exchanging or registering the transfer of Bonds under the provisions of this Resolution. Neither the Issuer nor the Registrar shall be required to make any such exchange, registration or transfer of Bonds after the Record Date.

SECTION 12. Ownership of Bonds. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or redemption price of any such Bond, and the interest on any such Bonds 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 including the premium, if any, and interest thereon to the extent of the sum or sums so paid.

SECTION 13. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated, or be destroyed, stolen or lost, the Issuer may, in its discretion, cause to be executed, and the Registrar shall authenticate and deliver, a new Bond of like date and tenor as the Bond so mutilated, destroyed, stolen or lost (e.g., Serial Bonds shall be issued in exchange for Serial Bonds and Capital Appreciation Bonds shall be issued in exchange for Capital Appreciation Bonds) in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder furnishing the Issuer and the Registrar proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer and the Registrar may prescribe and paying such expenses as the Issuer and the Registrar may incur. All Bonds so surrendered shall be canceled by the Issuer. If any of the Bonds shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Bonds issued pursuant to this Section 13 shall constitute original, additional contractual obligations on the part of the Issuer whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien on and source and security for payment from the funds, as hereinafter pledged, to the same extent as all other Bonds issued hereunder.

SECTION 14. Provisions for Redemption. The Bonds shall be subject to redemption prior to their maturity, at the option of the Issuer, at such times and in such manner as shall be fixed by Supplemental Resolution of the Issuer prior to or at the time of sale of such Bonds.

Unless otherwise provided in a Supplemental Resolution, notice of such redemption shall, at least thirty (30) days prior to the redemption date, be filed with the Registrar, and mailed by the Registrar on behalf of the Issuer, first class mail, postage prepaid, to all Holders of Bonds to be redeemed at their addresses as they appear on the registration books hereinbefore provided for on the Record Date, but failure to mail such notice to one or more Holders of such Bonds, or any defect therein, shall not affect the validity of the proceedings for such redemption with respect to Holders of Bonds to which notice was duly mailed hereunder and no defect occurred. Such notice shall also be sent to the registered securities depositories and two or more nationally recognized municipal securities information repositories. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of such Bonds, of one maturity are to be called, the distinctive numbers of such Bonds to be

redeemed and, in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed.

Any notice of optional redemption given pursuant to this Section 14 may state that it is conditional upon receipt by the Paying Agent of moneys sufficient to pay the redemption price, plus interest accrued to the redemption date, or upon the satisfaction of any other condition, or that it may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such redemption price and accrued interest if any such condition so specified is not satisfied or if any such other event occurs. Notice of such rescission shall be given by the Paying Agent to affected Holders of such Bonds as promptly as practicable upon the failure of such condition or the occurrence of such other event.

Official notice of redemption having been given as aforesaid, such Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the redemption price. Each check or other transfer of funds issued by the Registrar for the purpose of the payment of the redemption price of Bonds being redeemed shall, if applicable, bear the CUSIP number identifying, by issue and maturity, such Bonds being redeemed with the proceeds of such check or other transfer. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any such Bond, there shall be prepared for the Holder a new Bond or Bonds of the same maturity in the amount of the unpaid principal of such partially redeemed Bond. All such Bonds which have been redeemed shall be canceled and destroyed by the Registrar and shall not be reissued.

SECTION 15. Form of Bonds. The text of the Bonds, together with the certificate of authentication to be endorsed thereon, shall be in substantially the following form, with such omissions, insertions and variations as may be necessary, desirable, authorized or permitted by this Resolution or by any Supplemental Resolution adopted prior to the issuance of a Series of Bonds, or as may be necessary if such Bonds or a portion thereof are issued as Capital Appreciation Bonds, Capital Appreciation Income Bonds, Option Bonds, Variable Rate Bonds, or as may be necessary to comply with applicable laws, rules and regulations of the United States and of the State in effect upon the issuance thereof.

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[FORM OF BOND]

No. R-\_\_\_\_\_

\$\_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF FLORIDA  
COUNTY OF COLLIER  
CITY OF NAPLES  
PUBLIC UTILITIES [REFUNDING] REVENUE BOND, SERIES \_\_\_\_\_

MATURITY DATE:      INTEREST RATE:      DATED DATE:      CUSIP:

Registered Owner:

Principal Amount:

The City of Naples, Florida (hereinafter called the "Issuer") for value received, hereby promises to pay to the order of the Registered Owner identified above or registered assigns, as herein provided, on the Maturity Date identified above, upon the presentation and surrender hereof at the designated corporate trust office of \_\_\_\_\_, Florida from the sources hereinafter mentioned, the Principal Amount identified above in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and to pay, solely from said sources, to the Registered Owner hereof by wire transfer or check transmitted to the Registered Owner at his address as it appears on the Bond registration books of the Issuer as it appears on the 15<sup>th</sup> day of the calendar month preceding the applicable interest payment date, interest on said Principal Amount at the Interest Rate per annum identified above on each \_\_\_\_\_ 1 and \_\_\_\_\_ 1 commencing \_\_\_\_\_ 1, \_\_\_\_\_ from the interest payment date next preceding the date of registration and authentication of this Bond, unless this Bond is registered and authenticated as of an interest payment date, in which case it shall bear interest from said interest payment date, or unless this Bond is registered and authenticated prior to \_\_\_\_\_, \_\_\_\_\_, in which event this Bond shall bear interest from \_\_\_\_\_/\_\_\_\_\_.

The Bonds of this issue shall be subject to redemption prior to their maturity at the option of the Issuer.

(Insert Optional and/or Mandatory Redemption Provisions)

Notice of such redemption shall be given in the manner required by the Resolution (as defined below).

This Bond is in the aggregate principal amount of \$\_\_\_\_\_ of like date, tenor and effect, except as to number, principal amount, maturity, redemption provisions and interest

rate, issued to \_\_\_\_\_, all in full compliance with the provisions of the Constitution of the State of Florida, Chapter 166, Part III, Florida Statutes, Chapter 1598, Laws of Florida, Acts of 1959 as amended, being the municipal charter of the Issuer, and other applicable provisions of law, and Resolution No. \_\_\_\_\_ duly adopted by the Issuer on \_\_\_\_\_, 2007, as amended and supplemented (hereinafter collectively called the "Resolution") and is subject to all the terms and conditions of such Resolution. All capitalized undefined terms used herein shall have the meaning set forth in the Resolution.

This Bond is payable solely from and secured by a pledge of the Net Revenues of the System levied and collected by the Issuer, the Sewer System Development Charges, the Water System Development Charges, and the moneys in certain funds and accounts created pursuant to the Resolution (collectively, the "Pledged Revenues") in the manner and to the extent provided in the Resolution. Reference is made to the Resolution for more complete definition and description of the System and the Pledged Revenues.

This Bond does not constitute a general indebtedness of the Issuer within the meaning of any constitutional, statutory or charter provision or limitation, and it is expressly agreed by the Holder of this Bond that such Bondholder shall never have the right to require or compel the exercise of the ad valorem taxing power of the Issuer or taxation of any real or personal property therein for the payment of the principal of and interest on this Bond or the making of any debt service fund, reserve or other payments provided for in the Resolution. Neither the taxing power or the full faith and credit of the Issuer are pledged to secure payment of the principal of or the interest of this Bond.

It is further agreed between the Issuer and the Holder of this Bond that this Bond and the indebtedness evidenced thereby shall not constitute a lien upon the System, or any part thereof, or on any other property of or in the Issuer, but shall constitute a lien only on the Pledged Revenues all in the manner provided in the Resolution.

The Issuer has covenanted in the Resolution to fix, establish, revise from time to time whenever necessary, maintain and collect always such fees, rates, rentals and other charges for the use of the products, services and facilities of the System which will always provide (i) Net Revenues in each Fiscal Year sufficient to pay one hundred ten percent (110%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year, and (ii) combined Net Revenues, Sewer System Development Charges, and Water System Development Charges in each Fiscal Year sufficient to pay one hundred twenty percent (120%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year.

Net Revenues, Sewer System Development Charges, and Water System Development Charges will not be reduced so as to render them insufficient to provide revenues for the purposes provided therefor by this Ordinance.

The Issuer has entered into certain further covenants with the Holders of the Bond of this issue for the terms of which reference is made to the Resolution.

It is certified that this Bond is authorized by and is issued in conformity with the requirements of the Constitution and Statutes of the State of Florida.

This Bond is and has all the qualities and incidents of a negotiable instrument under Article 8 of the Uniform Commercial Code, the State of Florida, Chapter 678, Florida Statutes, as amended, subject in all respects to the registration requirements provided in the Resolution.

The transfer of this Bond is registrable by the Bondholder hereof in person or by his attorney or legal representative at the designated corporate trust office of the Registrar but only in the manner and subject to the conditions provided in the Resolution and upon surrender and cancellation of this Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until it shall have been authenticated by the execution by the Registrar of the certificate of authentication endorsed hereon.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City of Naples, Florida, has issued this Bond and has caused the same to be signed by the Mayor of the Issuer, attested by the signature of its City Clerk, and approved as to form and correctness by the City Attorney, either manually or with his or her facsimile signatures, and the corporate seal of the Issuer or a facsimile thereof to be affixed, impressed, imprinted, lithographed or reproduced hereon, all as of the dated date identified above imprinted hereon.

(SEAL)

CITY OF NAPLES, FLORIDA

By: \_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM  
AND CORRECTNESS:

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
City Attorney

CERTIFICATE OF AUTHENTICATION OF BOND REGISTRAR

This Bond is one of the Bonds of the issue described in the Resolution.

\_\_\_\_\_  
As Bond Registrar

By: \_\_\_\_\_  
Authorized Signature

Date of Authentication:

\_\_\_\_\_



ASSIGNMENT AND TRANSFER

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

\_\_\_\_\_  
(PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE)

\_\_\_\_\_  
(Name and Address of Transferee)

the within Bond and does hereby irrevocably constitute and appoints \_\_\_\_\_ to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated \_\_\_\_\_  
Signature Guaranteed

\_\_\_\_\_  
Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Bond Registrar.

\_\_\_\_\_  
Notice: The signature(s) on this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular, without alternation or enlargement or any change whatever.

[END OF FORM OF BOND]

SECTION 16. Creation of Funds. There are hereby created and established the following funds and accounts, which funds and accounts shall be trust funds held by the Finance Director for the purposes herein provided and used only in the manner herein provided:

(A) The "City of Naples Public Utilities Revenue Fund" (hereinafter sometimes called the "Revenue Fund") to be held by the Issuer and to the credit of which deposits of Gross Revenues shall be made as required by Section 20(A) hereof.

(B) The "City of Naples Public Utilities Bond Service Fund" (hereinafter sometimes called the "Bond Service Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20(B)(1) hereof. In such fund there shall be maintained the following accounts: the Principal Account, the Interest Account, the Parity Contract Obligation Account and the Redemption Account.

(C) The "City of Naples Public Utilities Reserve Fund" (hereinafter sometimes called the "Reserve Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20(B)(2) hereof.

(D) The "City of Naples Public Utilities Subordinated Debt Service Fund" (hereinafter sometimes called the "Subordinated Debt Service Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20(B)(3) hereof.

(E) The "City of Naples Public Utilities Renewal, Replacement and Improvement Fund" (hereinafter sometimes called the "Renewal, Replacement and Improvement Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20(B)(4) hereof.

(F) The "City of Naples Public Utilities Project Fund" (hereinafter sometimes called the "Project Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 17 hereof. Within such fund there shall be created, established and maintained separate accounts for each Series of Bonds. There is hereby created the Series 2007A Project Account (hereafter the "Series 2007A Project Account") which shall be held solely for the benefit of the Holders of the Series 2007A Bond.

(G) The "City of Naples Public Utilities Rate Stabilization Fund" (hereinafter sometimes called the "Rate Stabilization Fund") to be held by the Issuer and to the credit of which deposits may be made as required by Section 20(S) hereof.

(H) The "City of Naples Public Utilities Surplus Fund" (hereinafter sometimes called the "Surplus Fund") to be held by the Issuer and to the credit of which deposits may be made as required by Section 20(B)(5) hereof.

(I) The "City of Naples Sewer System Development Charges Fund" (hereinafter sometimes called the "Sewer System Development Charges Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20(Q) hereof.

(J) The "City of Naples Water System Development Charges Fund" (hereinafter sometimes called the "Water System Development Charges Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20(R) hereof.

The Revenue Fund, the Bond Service Fund (including the accounts therein), the Reserve Fund, the Renewal, Replacement and Improvement Fund, the Project Fund, the Rate Stabilization Fund, the Surplus Fund, the Sewer System Development Charges Fund, the Water System Development Charges Fund, and any other special funds herein established and created shall be deemed to be held in trust for the purposes provided herein for such funds. The money in all such funds shall be continuously secured in the same manner as state and municipal deposits are authorized to be secured by the laws of the State of Florida.

The cash required to be accounted for in each of the funds and accounts described in this Section 16 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 in and by this Resolution 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 certain revenues and assets of the System for certain purposes and to establish certain priorities for application of such revenues and assets as herein provided.

The Issuer may at any time and from time to time appoint one or more depositories to hold, for the benefit of the Bondholders, any one or more of the funds, accounts and subaccounts established hereby. Such depository or depositories shall perform at the direction of the Issuer the duties of the Issuer in depositing, transferring and disbursing moneys to and from each of such funds and accounts as herein set forth, and all records of such depository in performing such duties shall be open at all reasonable times to inspection by the Issuer and its agent and employees. Any such depository shall be a bank or trust company duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and having a combined capital, surplus and undivided profits aggregating not less than fifty million dollars (\$50,000,000).

SECTION 17. Application of Bond Proceeds. The proceeds, including accrued interest and premium, if any, received from the sale of a Series of the Bonds shall be applied by the Issuer simultaneously with the delivery of such Series of the Bonds to the purchaser thereof, as provided in a Supplemental Resolution adopted at or prior to sale of such Series of the Bonds.

SECTION 18. Disbursements from Project Fund. Moneys on deposit from time to time in the Project Fund shall be used to pay or reimburse the following Project Costs:

(A) Costs incurred directly or indirectly for or in connection with a Project or a proposed or future Project or acquisition including, but not limited to, those for preliminary planning and studies, architectural, legal, financial, engineering and supervisory services, labor, services, materials, equipment, accounts receivable, acquisitions, land, rights-of-way, improvements and installation;

(B) Premiums attributable to all insurance required to be taken out and maintained during the period of construction with respect to a Project to be acquired or constructed, the premium on each surety bond, if any, required with respect to work on such facilities, and taxes, assessments and other charges hereof that may become payable during the period of construction with respect to such a Project;

(C) Costs incurred directly or indirectly in seeking to enforce any remedy against a contractor or subcontractor in respect of any default under a contract relating to a Project or costs incurred directly or indirectly in defending any claim by a contractor or subcontractor with respect to a Project;

(D) Financial, legal, accounting, appraisals, title evidence and printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of such Series of Bonds;

(E) Capitalized interest funded from Bond proceeds, if any, for a reasonable period of time;

(F) Any other incidental and necessary costs including without limitation any expenses, fees and charges relating to the acquisition, construction or installation of a Project, and the making of extraordinary repairs, renewals and replacements, decommissioning or retirement of any portion of the System, including the cost of temporary employees of the Issuer retained to carry out duties in connection with the acquisition, construction or erection of a Project and costs related to transition of such Project into ownership by the Issuer;

(G) Costs incurred directly or indirectly in placing any Project in operation in order that completion of such Project may occur;

(H) Costs of acquiring an existing utility system from a Person, including but not limited to the costs relating to any real estate transaction related thereto;

(I) Any other costs relating to the System authorized pursuant to a Supplemental Resolution of the Issuer and permitted under the laws of the State subject to the prior written approval of Bond Counsel; and

(J) Reimbursements to the Issuer for any of the above items hereinbefore paid by or on behalf of the Issuer, to the extent deemed advisable by Bond Counsel.

Notwithstanding anything else in this Resolution to the contrary, in the Event of Default, the trustee acting for the Holders of Bonds shall, to the extent there are no other available funds held hereunder, use the remaining funds in the Project Fund to pay principal and interest on the Series of Bonds to which such funds relate and were provided by.

SECTION 19. Special Obligations of Issuer. The Bonds and any Parity Contract Obligations shall not be or constitute general obligations or indebtedness of the Issuer as "bonds" within the meaning of the Constitution of the State, but shall be payable solely from and secured by a first lien upon and a pledge of the Pledged Revenues as herein provided. No Holder or Holders of any Bonds issued hereunder or Qualified Agreement Provider shall ever have the right to compel the exercise of the ad valorem taxing power of the Issuer or taxation in any form of any real or personal property therein, or to compel the Issuer to pay such principal and interest from ad valorem tax revenues or any other funds of the Issuer, except the Pledged Revenues in the manner and to the extent described herein.

The payment of principal of and interest on the Bonds and any Parity Contract Obligations shall be secured forthwith equally and ratably by, and the Issuer hereby grants to the Bondholders and any Qualified Agreement Provider (to the extent set forth in the related Qualified Agreement) an irrevocable lien on the Pledged Revenues, prior and superior to all other liens or encumbrances on such Pledged Revenues and the Issuer does hereby irrevocably pledge such Pledged Revenues to the payment of the principal of, redemption premium, if any, and interest on the Bonds and any Parity Contract Obligations, for the reserves therefor and for all other payments required hereunder. Such amounts hereby pledged and assigned shall immediately be subject to the lien of this pledge without any further physical delivery thereof or any further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Issuer, irrespective of whether such parties have notice thereof.

SECTION 20. Covenants of the Issuer. For so long as any of the principal of and interest on any of the Bonds shall be outstanding and unpaid or until the Issuer has made provision for payment of principal, interest and redemption premiums, if any, with respect to the Bonds, as provided herein, the Issuer covenants with the Holders of any and all Bonds as follows:

(A) REVENUE FUND. All Gross Revenues of the System shall, upon receipt thereof, be deposited in the Revenue Fund. All deposits into such Revenue Fund shall be deemed to be held in trust for the purposes herein provided and used only for the purposes and in the manner herein provided.

(B) DISPOSITION OF REVENUES. All Net Revenues in the Revenue Fund shall be disposed of monthly, but not later than the twenty-fifth (25th) day of each month commencing in the month immediately following the delivery of the first Series

of Bonds issued hereunder only in the following manner and the following order of priority:

(1) The Issuer shall first deposit into the Bond Service Fund and credit to the following accounts, in the following order (except that payments into the Interest Account and the Parity Contract Obligations Account shall be on parity with each other, and the payments into the Principal Account and the Redemption Account shall be on a parity with each other), the following identified sums:

(a) Interest Account: Taking into account actual and anticipated earnings in the Interest Account of the Bond Service Fund within the current Bond Year, such sum as will be sufficient to pay one-sixth (1/6<sup>th</sup>) of all interest coming due on all Outstanding Bonds on the next interest payment date; provided, however, that monthly deposits of interest, or portions thereof, shall not be required to be made to the extent that money on deposit within such Interest Account is sufficient for such purpose. In the event the Issuer has issued Variable Rate Bonds pursuant to the provisions hereof, Net Revenues shall be deposited at such other or additional times and amounts as necessary to pay any interest coming due on such Variable Rate Bonds on the next interest payment date, all in the manner provided in a Supplemental Resolution of the Issuer. Any monthly payment out of Net Revenues to be deposited as set forth above, for the purpose of meeting interest payments for any Series of Bonds, shall be adjusted, as appropriate, to reflect the frequency of interest payment dates applicable to such Series. Moneys in the Interest Account may be used only for the purposes set forth in this paragraph (a).

(b) Parity Contract Obligations Account: Taking into account the actual and anticipated earnings in the Parity Contract Obligations Account in the Bond Service Fund within the current Bond Year, a pro rata estimated amount necessary to build up over time the amount of any Parity Contract Obligation which will next be due and payable or reasonably expected to be due and payable under any Qualified Agreement on the next payment date thereunder; provided, however, that the monthly amount to be so deposited may be adjusted, as appropriate, to reflect the frequency of payment dates thereunder (e.g., if such Parity Contract Obligations are required to be paid semi-annually, the Issuer shall be required to deposit monthly an amount which is estimated to equal one-sixth (1/6<sup>th</sup>) of the next such payment). Moneys in the Parity Contract Obligations Account may be used only for the purposes set forth in this paragraph (b).

(c) Principal Account: Taking into account actual and anticipated earnings in the Principal Account of the Bond Service Fund within the current Bond Year, such sum as will be sufficient to pay one-twelfth (1/12<sup>th</sup>) of the principal amount of the Outstanding Bonds which will mature and become due on such annual maturity dates beginning the month which is twelve (12) months

prior to the first principal maturity date; provided, however, that monthly deposits for principal, or portions thereof, shall not be required to be made to the extent that money on deposit within such Principal Account is sufficient for such purpose. Any monthly payment out of Net Revenues to be deposited as set forth above, for the purpose of meeting principal payments for any Series of Bonds, shall be adjusted, as appropriate, to reflect the frequency of principal payment dates applicable to such Series. Moneys in the Principal Account may be used only for the purposes set forth in this paragraph (c).

(d) Redemption Account: Taking into account actual and anticipated earnings in the Redemption Account of the Bond Service Fund within the current Bond Year, such sum as will be sufficient to pay one-twelfth (1/12<sup>th</sup>) of any Amortization Installment established for the mandatory redemption of Outstanding Bonds on such annual maturity date beginning the month which is twelve (12) months prior to the first Amortization Installment date; provided, however, that monthly deposits into the Redemption Account, or portions thereof, shall not be required to be made to the extent that money on deposit in the Redemption Account is sufficient for such purpose. Any monthly payment out of Net Revenues to be deposited as set forth above, for the purpose of meeting Amortization Installments for any Series of Bonds, shall be adjusted, as appropriate, to reflect the frequency of dates established for Amortization Installments applicable to such Series. The moneys in the Redemption Account shall be used solely for the purchase or redemption of the Term Bonds payable therefrom. The Issuer may at any time purchase any of said Term Bonds at prices not greater than the then redemption price of said Term Bonds. If the Term Bonds are not then redeemable prior to maturity, the Issuer may purchase said Term Bonds at prices not greater than the redemption price of such Term Bonds on the next ensuing redemption date. If Term Bonds are so purchased by the Issuer, the Issuer shall credit the account of such purchased Term Bonds against any current Amortization Installment to be paid by the Issuer. If the Issuer shall purchase or call for redemption in any year Term Bonds in excess of the Amortization Installment requirement for such year, such excess of Term Bonds so purchased or redeemed shall be credited in such manner and at such times as the Issuer shall determine. Moneys in the Redemption Account in the Debt Service Fund may be used only for the purposes set forth in this paragraph (d).

(2) To the extent that the amounts on deposit in the Reserve Fund are less than the applicable Reserve Requirement, the Issuer shall next make deposits into the Reserve Fund in the manner described below from moneys remaining in the Revenue Fund. Any withdrawals from the Reserve Fund shall be subsequently restored from the first moneys available in the Revenue Fund, after all required current payments for Cost of Operation and Maintenance as set forth above and all current applications and allocations to the Bond Service Fund, including all deficiencies for prior payments have

been made in full. Notwithstanding the foregoing, in case of withdrawal from the Reserve Fund, in no event shall the Issuer be required to deposit into the Reserve Fund an amount greater than that amount necessary to ensure that the difference between the Reserve Requirement and the amounts on deposit in the Reserve Fund on the date of calculation shall be restored not later than sixty (60) months after the date of such deficiency (assuming equal monthly payments into the Reserve Fund for such sixty (60) month period).

Upon the issuance of any Additional Parity Obligations under the terms, limitations and conditions as herein provided, the Issuer may, on the date of delivery of such Additional Parity Obligations, increase the sum required to be accumulated and maintained on deposit in the Reserve Fund to be at least equal to the Reserve Requirement on all Outstanding Bonds secured by such Reserve Fund including the Additional Parity Obligations then issued. Such required sum may be paid in full or in part from the proceeds of such Additional Parity Obligations or may be accumulated in equal monthly payments to the Reserve Fund over a period of months from the date of issuance of the Additional Parity Obligations, which shall not exceed the greater of (a) twelve (12) months, or (b) the number of months for which interest on such Additional Parity Obligations has been capitalized, as determined by Supplemental Resolution. In the event moneys in the Reserve Fund are accumulated as provided above, (i) the amount in said Reserve Fund on the date of delivery of the Additional Parity Obligations shall not be less than the Reserve Requirement on all Bonds Outstanding secured by such Reserve Fund (excluding the Additional Parity Obligations) on such date, and (ii) the incremental difference between the Reserve Requirement on all Bonds Outstanding secured by such Reserve Fund (excluding the Additional Parity Obligations) on the date of delivery of the Additional Parity Obligations and the Reserve Requirement on all such Bonds and the Additional Parity Obligations shall be fifty percent (50%) funded upon delivery of the Additional Parity Obligations.

The Issuer may also establish a separate subaccount in the Reserve Fund for any Series of Bonds and provide a pledge of such subaccount to the payment of such Series of Bonds apart from the pledge provided herein. To the extent a Series of Bonds is secured separately by a subaccount of the Reserve Fund, the Holders of such Bonds shall not be secured by any other moneys in the Reserve Fund. Moneys in a separate subaccount of the Reserve Fund shall be maintained at the Reserve Requirement applicable to such Series of Bonds secured by the subaccount; provided the Supplemental Resolution authorizing such Series of Bonds may establish the Reserve Requirement relating to such separate subaccount of the Reserve Fund at such level as the Issuer deems appropriate. Moneys shall be deposited in the separate subaccounts in the Reserve Fund on a pro-rata basis.

In the event the Issuer shall maintain a Reserve Fund Insurance Policy or Reserve Fund Letter of Credit and moneys in the Reserve Fund or any subaccount therein, the



moneys shall be used prior to making any disbursements under such Reserve Fund Insurance Policy or Reserve Fund Letter of Credit.

Notwithstanding the foregoing, in lieu of or in substitution for the required deposits into the Reserve Fund, the Issuer may cause to be deposited into the Reserve Fund a Reserve Fund Insurance Policy and/or a Reserve Fund Letter of Credit in an amount equal to the difference between the Reserve Requirement and the sums then on deposit in the Reserve Fund plus the amounts to be deposited therein pursuant to the preceding paragraph. The issuer providing such Reserve Fund Insurance Policy and/or Reserve Fund Letter of Credit shall either be (a) an insurer (i) whose municipal bond insurance policies insuring the payment, when due, of the principal of and interest on municipal bond issue results in such issues being rated in one of the two highest rating categories (without regard to gradations, such as "plus" or "minus" of such category) by either Standard & Poor's Corporation, Moody's or Fitch or (ii) who holds the highest policyholder rating accorded insurers by A.M. Best & Company, or any comparable service, or (b) a commercial bank, insurance company or other financial institution the obligations payable or guaranteed by which have been assigned a rating by Moody's, Standard & Poor's Corporation or Fitch in one of the two highest rating categories (without regard to gradations, such as "plus" or "minus" of such categories); provided, that notwithstanding the foregoing, such insurer or commercial bank must be rated by any rating agency or agencies providing a rating on the Bonds secured by such Reserve Fund Insurance Policy or Reserve Fund Letter of Credit.

In the event the Reserve Fund contains both a Reserve Fund Insurance Policy or Reserve Fund Letter of Credit and cash, the cash shall be drawn down completely prior to any draw on the Reserve Fund Insurance Policy or Reserve Fund Letter of Credit. In the event more than one Reserve Fund Insurance Policy or Reserve Fund Letter of Credit is on deposit in the Reserve Fund, amounts required to be drawn thereon shall be done on a pro-rata basis calculated by reference to the maximum amounts available thereunder. The Issuer agrees to pay all Reimbursement Obligations in regard to any Reserve Fund Insurance Policy or Reserve Fund Letter of Credit from the Pledged Revenues. Pledged Revenues shall be applied in accordance with this Section 20(B)(2), on a pro-rata basis, to pay Reimbursement Obligations to the issuer of the Reserve Fund Insurance Policy or Reserve Fund Letter of Credit for amounts advanced under such instruments, replenish any cash deficiencies in the Reserve Fund, and to pay the issuer of the Reserve Fund Insurance Policy or Reserve Fund Letter of Credit interest on amounts advanced under such instruments. Notwithstanding anything herein to the contrary, this Resolution shall not be discharged or defeased while any Reimbursement Obligations are owing in regard to a Reserve Fund Insurance Policy or Reserve Fund Letter of Credit on deposit in the Reserve Fund. The Issuer agrees not to optionally redeem or exercise its rights to an extraordinary mandatory redemption or refund Bonds unless all Reimbursement Obligations owing in regard to a Reserve Fund Insurance Policy or Reserve Fund Letter of Credit on deposit in the Reserve Fund have been paid in full.

If five (5) days prior to an interest payment date, principal payment date or date an Amortization Installment is due or such other period of time as shall be established pursuant to a Supplemental Resolution, the Issuer shall determine that a deficiency exists in the amount of moneys available to pay in accordance with the terms hereof interest, principal or Amortization Installment due on the Bonds on such date, the Issuer shall immediately notify (1) the issuer of the applicable Reserve Fund Insurance Policy and/or the issuer of the Reserve Fund Letter of Credit and submit a demand for payment pursuant to the provisions of such Reserve Fund Insurance Policy and/or Reserve Fund Letter of Credit, and (2) the Paying Agent of the amount of such deficiency and the date on which such payment is due, and shall take all action to cause such issuer to provide moneys sufficient to pay all amounts due on such interest payment date.

The Issuer may evidence its obligation to reimburse the issuer of any Reserve Fund Letter of Credit or Reserve Fund Insurance Policy by executing and delivering a reimbursement agreement therefore which evidences a Reimbursement Obligation; provided, however, any reimbursement agreement (1) shall not be or create a general obligation of the Issuer the payment of which is secured by the full faith and credit or taxing power of the Issuer, and (2) shall be payable or obligate the Issuer to pay solely from the Pledged Revenues in a manner which is not inconsistent with the terms hereof.

To the extent the Issuer causes to be deposited into the Reserve Fund a Reserve Fund Insurance Policy and/or a Reserve Fund Letter of Credit for a term of years shorter than the life of the Bonds, then the Reserve Fund Insurance Policy and/or the Reserve Fund Letter of Credit shall provide, among other things, that the issuer thereof shall provide the Issuer and the Paying Agents with notice as of each anniversary of the date of the issuance of the Reserve Fund Insurance Policy and/or the Reserve Fund Letter of Credit of the intention of the issuer thereof to either (1) extend the term of the Reserve Fund Insurance Policy and/or the Reserve Fund Letter of Credit beyond the expiration dates thereof, or (2) terminate the Reserve Fund Insurance Policy and/or the Reserve Fund Letter of Credit on the initial expiration dates thereof or such other future date as the issuer thereof shall have established. If the issuer of the Reserve Fund Insurance Policy and/or the Reserve Fund Letter of Credit notifies the Issuer pursuant to clause (2) of the immediately preceding sentence or if the Issuer terminates the Reserve Fund Letter of Credit and/or Reserve Fund Insurance Policy, then the Issuer shall deposit into the Reserve Fund, on or prior to the end of the first full calendar month following the date on which such notice is received by the Issuer and each month hereafter, such sums as shall be sufficient to pay an amount equal to a fraction, the numerator of which is one (1) and the denominator of which is equal to the number of months remaining in the term of the Reserve Fund Insurance Policy and/or the Reserve Fund Letter of Credit on the date such notice was received multiplied by the maximum amount available, assuming full reimbursement by the Issuer, under the Reserve Fund Letter of Credit and/or the Reserve Fund Insurance Policy until amounts on deposit in the Reserve Fund, as a result of the aforementioned deposits, and no later than upon the expiration of such

Reserve Fund Insurance Policy and/or such Reserve Fund Letter of Credit, shall be equal to the Reserve Requirement.

Additionally, Reserve Fund Letters of Credit shall be for a term of not less than three years. The issuer of the Reserve Fund Letter of Credit shall be required to notify the Issuer and the Paying Agent, not later than 30 months prior to the stated expiration date of the Reserve Fund Letter of Credit, as to whether such expiration date shall be extended, and if so, shall indicate the new expiration date.

The Reserve Fund Letter of Credit shall permit to draw in full not less than two weeks prior to the expiration or termination of such Reserve Fund Letter of Credit if the Reserve Fund Letter of Credit has not been replaced or renewed. The Reserve Fund Letter of Credit shall direct the Paying Agent to draw upon the Reserve Fund Letter of Credit five days prior to its expiration or termination unless an acceptable replacement is in place or the funds contained in the Reserve Fund is equal to the Reserve Requirement on all Outstanding Bonds theretofore issued and secured thereby.

The use of any Reserve Fund Insurance Policy or Reserve Fund Letter of Credit pursuant to this Resolution shall be subject to receipt of an opinion of counsel acceptable to the Insurer and in form and substance satisfactory to the Insurer as to the due authorization, execution, delivery and enforceability of such instrument in accordance with its terms, subject to applicable laws affecting creditors' rights generally, and, in the event the issuer of such Credit Facility is not a domestic entity, an opinion of foreign counsel in form and substance satisfactory to the Insurer.

Notwithstanding anything herein to the contrary, Reimbursement Obligations relating to a Reserve Fund Insurance Policy or Reserve Fund Letter of Credit for any fees, expenses, claims or draws upon such Reserve Fund Insurance Policy or Reserve Fund Letter of Credit shall be subordinate to the payment of debt service on the Bonds and to the payment of any Parity Contract Obligations. The right of the issuer of a Reserve Fund Insurance Policy or Reserve Fund Letter of Credit to payment of reimbursement of its fees and expenses shall be subordinated to cash replenishment of the Reserve Fund, and subject to the second succeeding sentence, its right to reimbursement for claims or draws shall be prior to the replenishment of the cash drawn from the Reserve Fund. The Reserve Fund Insurance Policy or Reserve Fund Letter of Credit shall provide for a revolving feature under which the amount available thereunder will be reinstated to the extent of any reimbursement of draws or claims paid. If the revolving feature is suspended or terminated for any reason, the right of the issuer of the Reserve Fund Insurance Policy or Reserve Fund Letter of Credit reimbursement will be further subordinated to cash replenishment of the Reserve Fund to an amount equal to the difference between the full original amount available under the Reserve Fund Insurance Policy or Reserve Fund Letter of Credit and the amount then available for further draws or claims. If (1) the issuer of a Reserve Fund Insurance Policy or Reserve Fund Letter of Credit becomes insolvent or (2) the issuer of a Reserve

Fund Insurance Policy or Reserve Fund Letter of Credit defaults in its payment obligations thereunder or (3) the claims-paying ability of the issuer of the Reserve Fund Insurance Policy falls below a Standard & Poor's "AAA" or Moody's "Aaa" or Fitch "AAA" or (4) the rating of the issuer of the Reserve Fund Letter of Credit falls below a Standard & Poor's "AA", the obligation to reimburse the issuer of the Reserve Fund Insurance Policy or Reserve Fund Letter of Credit shall be subordinate to the cash replenishment of the Reserve Fund.

If (1) the revolving reinstatement feature described in the preceding paragraph is suspended or terminated or (2) the rating of the claims paying ability of the issuer of the Reserve Fund Insurance Policy falls below the Standard & Poor's "AAA" or a Moody's "Aaa" or (3) the rating of the issuer of the Reserve Fund Letter of Credit falls below a Standard & Poor's "AA", the Issuer shall either (i) deposit into the Reserve Fund an amount sufficient to cause the cash or Permitted Investments on deposit in the Reserve Fund to equal the Reserve Requirement on all Outstanding Bonds secured thereby, such amount to be paid over the ensuing five years in equal installments deposited at least semi-annually or (ii) replace such instrument with a Reserve Fund Insurance Policy or Reserve Fund Letter of Credit meeting the requirements of this Resolution within six months of such occurrence. In the event (1) the rating of the claims-paying ability of the issuer of the Reserve Fund Insurance Policy falls below "A," or (2) the rating of the issuer of the Letter of Credit falls below "A," or (3) the issuer of the Reserve Fund Insurance Policy or Reserve Fund Letter of Credit defaults in its payment obligations, or (4) the issuer of the Reserve Fund Insurance Policy or Reserve Fund Letter of Credit becomes insolvent, the Issuer shall either (i) deposit into the Reserve Fund an amount sufficient to cause the cash or Permitted Investments on deposit in the Reserve Fund to equal the Reserve Requirement on all outstanding Bonds secured thereby, such amount to be paid over the ensuing year in equal installments on at least a monthly basis or (ii) replace such instrument with a Reserve Fund Insurance Policy or Reserve Fund Letter of Credit meeting the requirements of this Resolution within six months of such occurrence.

If any Reserve Fund Letter of Credit or Reserve Fund Insurance Policy shall terminate prior to the stated expiration date thereof, the Issuer agrees that it shall fund the Reserve Fund over a period not to exceed twelve (12) months during which it shall make consecutive equal monthly payments in order that the amount on deposit in the Reserve Fund shall equal the Reserve Requirement; provided, the Issuer may obtain a new Reserve Fund Letter of Credit or a new Reserve Fund Insurance Policy in lieu of making the payments required by this paragraph.

Moneys in the Reserve Fund and subaccounts therein shall be used only for the purpose of the payment of Amortization Installments, principal of, or interest on the Outstanding Bonds secured thereby when the other moneys allocated to the Bond Service Fund are insufficient therefor, and for no other purpose.

Permitted Investments on deposit in the Reserve Fund shall be valued at fair value pursuant to generally accepted accounting principles at least annually. In the event of the refunding of any Series of Bonds secured thereby, the Issuer may withdraw from the Reserve Fund or subaccount securing such Series, all or any portion of the amounts accumulated therein with respect to such Bonds being refunded and deposit such amounts as required by the Supplemental Resolution authorizing the refunding of such Series of Bonds; provided that such withdrawal shall not be made unless (a) immediately thereafter, the Bonds being refunded shall be deemed to have been paid pursuant to the provisions hereof, and (b) the amount remaining in the Reserve Fund after giving effect to the issuance of such refunding obligations and the disposition of the proceeds thereof shall not be less than the Reserve Requirement for any Bonds then Outstanding which are secured thereby.

(3) From the moneys remaining in the Revenue Fund, the Issuer shall next deposit into the Subordinated Debt Service Fund an amount required to be paid as provided in the ordinance, resolution or agreement of the Issuer authorizing such Subordinated Debt, but for no other purposes.

(4) The Issuer shall next apply and deposit monthly from the moneys remaining on deposit in the Revenue Fund into the Renewal, Replacement and Improvement Fund, an amount at least equal to one-twelfth (1/12<sup>th</sup>) of 5% of Gross Revenues for the prior Fiscal Year. The moneys in the Renewal, Replacement and Improvement Fund shall be used only for the purpose of paying the cost of extraordinary repairs, extensions, enlargements or additions to, or the replacement of capital assets of the System or emergency repairs thereto. No further deposits shall be required to be made into the Renewal, Replacement and Improvement Fund when there shall be on deposit therein an amount equal to or greater than at least one percentum (1%) of the gross book value of the fixed assets of the System, or such other amount as may be determined from time to time by the Consulting Engineers. Funds on hand in the Renewal, Replacement and Improvement Fund may be used to pay current Cost of Operation and Maintenance to the extent moneys on deposit in the Revenue Fund are insufficient for such purposes. The moneys on deposit in such fund may also be used to supplement the Reserve Fund, if necessary, in order to prevent a default in the payment of the principal and interest on the Bonds secured thereby.

(5) The balance of any moneys remaining in the Revenue Fund after the above required payments have been made shall be deposited into the Surplus Fund and may be used for any lawful purpose; provided, however, that none of such moneys shall be used for any purposes other than those hereinabove specified unless all current payments, including any deficiencies for prior payments, have been made in full and unless the Issuer shall have complied fully with all the covenants and provisions of this Resolution.

(C) INVESTMENTS. Moneys in any fund or account created hereunder may be invested and reinvested in Permitted Investments which mature not later than the dates on which the moneys on deposit therein will be needed for the purpose of such fund. All income on such investments, except as otherwise provided, shall be deposited in the respective funds and accounts from which such investments were made and be used for the purposes thereof unless and until the maximum required amount (or, with respect to the Project Fund, the amount required to acquire, construct and erect the Project) is on deposit therein, and thereafter shall be deposited in the Revenue Fund.

In determining the amount of any of the payments required to be made pursuant to this Section 20(C), credit may be given for all investment income accruing to the respective funds and accounts described herein, except as otherwise provided.

(D) OPERATION AND MAINTENANCE. The Issuer will maintain the System and all parts thereof in good condition and will operate the same in an efficient and economical manner, making such expenditures for equipment and for renewals, repairs and replacements as may be proper for the economical operation and maintenance thereof.

(E) RATE COVENANT. The Issuer will fix, establish, revise from time to time whenever necessary, maintain and collect always such fees, rates, rentals and other charges for the use of the products, services and facilities of the System which will always provide (i) Net Revenues in each Fiscal Year sufficient to pay one hundred ten percent (110%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year, or (ii) combined Net Revenues, Sewer System Development Charges, and Water System Development Charges in each Fiscal Year sufficient to pay one hundred twenty percent (120%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year.

In addition, Net Revenues in each Fiscal Year shall also be sufficient to provide one hundred percent (100%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year, any amounts required by the terms hereof to be deposited into the Reserve Fund or with any Credit Facility Issuer as a result of a withdrawal from the Reserve Fund, the Renewal, Replacement and Improvement Fund and debt service on other obligations payable from the Revenues of the System, and other payments, and all allocations and applications of revenues herein required in such Fiscal Year.

Net Revenues, Sewer System Development Charges, and Water System Development Charges shall not be reduced so as to render them insufficient to provide revenues for the purposes provided therefor by this Ordinance.

(F) BOOKS AND ACCOUNTS; AUDIT. The Issuer shall keep proper books, records and accounts, separate and apart from all other records and accounts, showing correct and complete entries of all transactions of the System, and the Holders of any of the Bonds or any duly authorized agent or agents of such Holders shall have the right at any and all reasonable times to inspect such books, records and accounts. The Issuer shall, within two hundred ten

(210) days following the close of each Fiscal Year of the Issuer, cause an audit of such books, records and accounts to be made by an independent firm of certified public accountants.

Copies of each such audit report shall be placed on file with the Issuer and be made available at reasonable times for inspection by Holders of the Bonds.

(G) DISPOSITION OF SYSTEM.

The System may be sold or otherwise disposed of as a whole or substantially as a whole, only if the net proceeds to be realized, together with other moneys available for such purpose, shall be sufficient to fully retire all of the Outstanding Bonds issued pursuant to this Resolution and all interest thereon to their respective dates of maturity or earlier redemption dates and to make any termination payments required under any Qualified Agreement. The proceeds from such sale or other disposition of the System shall immediately be deposited first in the Bond Service Fund and then in the Subordinated Debt Service Fund and shall be used only for the purpose of paying Parity Contract Obligations, and paying the principal of and interest on the Bonds and Subordinated Debt as the same shall become due, or the redemption of callable Bonds and Subordinated Debt, or the purchase of Bonds and Subordinated Debt at a price not greater than the redemption price of said Bonds and Subordinated Debt, or, if the Bonds or Subordinated Debt are not then redeemable prior to maturity, at prices not greater than the redemption price of such Bonds or Subordinated Debt on the next ensuing redemption date.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease, exchange or otherwise dispose of any of the tangible property or ownership interest in tangible property comprising a part of the System in the following manner, if any one of the following conditions exist: (a) such property is not necessary for the operation of the System or (b) such property is not useful in the operation of the System or (c) such property is not profitable in the operation of the System.

Prior to any sale, lease, exchange or other disposition of said property:

(1) if the amount or value to be received therefor is not in excess of one-half (1/2) of one percentum (1%) of the value of the gross plant investment in the System, the officer of the Issuer charged with the normal acquisition, construction, operation, maintenance and repair of the portion of the System for which disposition is sought, may determine that such property comprising a part of such System is either no longer necessary, useful or profitable in the operation thereof.

(2) if the amount or value to be received therefor is in excess of one-half (1/2) of one percentum (1%) of the value of the gross plant investment in the System, the officer of the Issuer charged with the normal acquisition, construction, operation, maintenance and repair of the portion of the System for which disposition is sought and the Consulting Engineers shall each first make a finding in writing determining that such property comprising a part of such System is either no longer necessary, useful or profitable in the operation thereof, and the Issuer shall,

by resolution duly adopted, approve and concur in the finding of such authorized officer and the Consulting Engineers.

The cash proceeds, if any, realized from such disposal of a part of the System shall be deposited in the Renewal, Replacement and Improvement Fund to the extent necessary to make the amount on deposit therein equal to the amount then required to be on deposit therein; and any additional moneys not needed for said fund shall be used for any capital expenditures in connection with the System or the purchase or redemption of Outstanding Bonds.

Notwithstanding any other provision of this Section 20(G) or this Resolution to the contrary, except for the initial paragraph of this Section 20(G), the Issuer may sell, lease, exchange or otherwise dispose of tangible property or an ownership interest in tangible property comprising a part of the System provided the duly authorized officer charged with the normal acquisition, construction, operation, maintenance and repair of the portion of the System for which disposition is sought, and the Qualified Independent Consultant each make a finding in writing, adopted and confirmed by resolution of the Issuer, determining that (i) such sale, lease, exchange or other disposition will not materially impair or restrict the Issuer's ability to realize Gross Revenues in compliance with the requirements therefor as set forth herein, and (ii) such sale, lease, exchange or other disposition is in the economic best interests of the Issuer.

Notwithstanding any other provision of this Section 20(G) or this Resolution to the contrary, the Issuer may transfer ownership and/or operation of all or a portion of the System to any public body authorized by the laws of the State to own and/or operate such System on an installment sale basis provided that the Issuer (i) has received an opinion of Bond Counsel stating the federal income tax exemption of the interest on the Bonds (not including taxable Bonds) will not be affected and has received an opinion of Bond Counsel stating that such sale is not prohibited by any applicable Florida law, and (ii) the Issuer adopts a resolution to the effect that, based upon such certificates and opinions of its Consulting Engineers, independent certified public accountants, Bond Counsel, Financial Advisor or other Qualified Independent Consultant as the Issuer shall deem necessary, desirable or appropriate, such transfer will not materially adversely affect the rights of the Holders of the Bonds.

(H) INSURANCE. The Issuer shall provide protection for the System both in accordance with the requirements of all agreements, if any, to which the Issuer may at the time be a party with respect to joint ownership of properties by the Issuer with others which is part of the System, and in accordance with Prudent Utility Practice. Said protection may consist of insurance, self insurance and indemnities. To the extent it does not self-insure, the Issuer will keep, or cause to be kept, the works, plants and facilities comprising the properties of the System insured, and will carry such other insurance against fire and other risks, accidents or casualties at least to the extent and of the kinds that insurance is usually carried by utilities operating like properties. Any insurance shall be in the form of policies or contracts for insurance with insurers of good standing, shall be payable to the Issuer and may provide for such deductibles, exclusions, limitations, restrictions, and restrictive endorsements customary in policies for similar coverage issued to entities operating properties similar to the properties of



the System. Any self insurance shall be in the amounts, manner and of the type provided by entities operating properties similar to the properties of the System. In the event of any loss or damage to the System covered by insurance, the Issuer will, with respect to each such loss, promptly repair, reconstruct or replace the parts of the System affected by such loss or damage to the extent necessary to the proper conduct of the operation of the business of the System in accordance with Prudent Utility Practice, shall cause the proceeds of such insurance to be applied for that purpose to the extent required therefor, and pending such application, shall hold the proceeds of any insurance policy covering such damage or loss in trust to be applied for that purpose to the extent required therefor. Any excess insurance proceeds received by the Issuer may be used by the Issuer for any lawful purpose. Notwithstanding the foregoing or any provisions of this Resolution to the contrary, the Issuer shall not be required to maintain insurance with respect to facilities for which insurance shall not be available at reasonable cost or for facilities which, in accordance with Prudent Utility Practice, are not customarily insured.

(I) NO FREE SERVICE. So long as any Bonds are outstanding, the Issuer shall not furnish or supply the facilities, services and commodities of the System either free of charge or for a nominal charge to any person, firm or corporation, public or private, including the Issuer's departments, agencies and instrumentalities which avail themselves of the services of the System. The Issuer shall promptly enforce the payment of any and all accounts owing to the Issuer and delinquent, by discontinuing service or by filing suits, actions or proceedings, or by both discontinuance of service and filing suit.

(J) MANDATORY CUT OFF. The Issuer shall establish a written policy consistent with sound business judgment for the disconnection from the System of any customer who fails to pay for services rendered by the System, and shall enforce such policy diligently and fairly.

(K) ENFORCEMENT OF COLLECTIONS. The Issuer will diligently enforce and collect the rates, fees and other charges for the services and facilities of the System and will take all steps, actions and proceedings for the enforcement and collection of such rates, charges and fees as shall become delinquent to the full extent permitted or authorized by law; and will maintain accurate records with respect thereof. All such fees, rates, charges and revenues shall, as collected, be held in trust to be applied as herein provided.

(L) OPERATING BUDGET. The Issuer shall annually, prior to commencement of each of its Fiscal Years, prepare and adopt a budget of the estimated expenditures for the operation and maintenance of the System during such next succeeding Fiscal Year. The Issuer shall mail copies of such annual budgets (including any amendments thereto) to any Holder or Holders of Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets be furnished him and shall make available such budgets of the 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. Bondholders shall pay reasonable actual cost of printing and mailing of such copies.

(M) MANDATORY CONNECTIONS; NO COMPETING SYSTEM. So long as service is in fact available as reasonably determined by the Issuer, the Issuer will, to the full extent permitted by law, require all lands, buildings and structures within the area being served by the Sewer System (other than reuse system), to connect with and use such facilities within one year after notification. To the extent permitted by law, the Issuer will not grant a franchise for the operation of any competing utility system or systems within the area served by the System until all Bonds issued hereunder, together with the interest thereon, and premium, if any, have been paid in full. Notwithstanding the foregoing, the Issuer shall not be required to duplicate services being provided by private or public utilities in the area being served by such private or public utilities on the date of issuance of the first Series of Bonds hereunder. In addition, the Issuer shall not be prohibited from allowing other private or public utilities to provide services within the area being served by the System, if the Issuer shall not be providing such service in such area on that date. Nothing herein shall be deemed to constitute the approval of the Issuer for any private or public utility (other than the System) to provide any services within the boundaries of the Issuer or within the area being served by the System or within any other area of the Issuer.

(N) PAYMENT OF TAXES, ASSESSMENTS AND OTHER CLAIMS. The Issuer shall from time to time duly pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges, or payments in lieu thereof, lawfully imposed upon the properties constituting the System or the Gross Revenues, Sewer System Development Charges or Water System Development Charges when the same shall become due, as well as all lawful claims for labor and materials and supplies which, if not paid, might become a lien or charge upon such properties or any part thereof, or upon the Gross Revenues, Sewer System Development Charges or Water System Development Charges or which might in any way impair the security of the Bonds, except assessments, charges or claims which the Issuer shall in good faith contest by proper legal proceedings.

(O) ISSUANCE OF OTHER OBLIGATIONS. The Issuer shall issue no bonds or obligations of any kind or nature payable from or enjoying a lien on the Pledged Revenues if such obligations have priority over the Bonds or any Parity Contract Obligations with respect to payment or lien, nor shall the Issuer create or cause or permit to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien of the Bonds and any Parity Contract Obligations upon said Pledged Revenues. Notwithstanding any other provision in this Section 20(O), the Issuer may issue Additional Parity Obligations under the conditions and in the manner provided herein. Any obligations of the Issuer, other than the Bonds and any Parity Contract Obligations, which are payable from the Pledged Revenues shall contain an express statement that such obligations are junior and subordinate in all respects to the Bonds and any Parity Contract Obligations as to lien on and source and security for payment from such Pledged Revenues.

(P) ISSUANCE OF ADDITIONAL PARITY OBLIGATIONS. No Additional Parity Obligations shall be issued after the issuance of the Series 2007A Bond and the Series 2007B Bond herein authorized, except upon the conditions and in the manner hereinafter provided:

(1) There shall have been obtained and filed with the Clerk a certificate of a Qualified Independent Consultant stating: (a) that the books and records of the Issuer relative to the System and the Net Revenues, Water System Development Charges and Sewer System Development Charges have been reviewed by the Qualified Independent Consultant; and (b), (i) that the amount of Net Revenues derived for any consecutive twelve (12) months out of the preceding thirty (30) months preceding the date of issuance of the proposed Additional Parity Obligations (the "Test Period) adjusted as provided in paragraphs (2), (3), (4), (5) and/or (6) below is equal to at least 110% of the Maximum Bond Service Requirement becoming due in any Bond Year thereafter on (A) all Bonds issued under this Resolution, if any, then Outstanding, and (B) on the Additional Parity Obligations with respect to which such certificate is made, or (ii) that the amount of the Net Revenues, Water System Development Charges and Sewer System Development Charges adjusted as provided in paragraphs (2), (3), (4), (5) and/or (6) below, is equal to not less than 120% of the Maximum Bond Service Requirement becoming due in any Bond Year thereafter on (A) all Bonds issued under this Resolution, if any, then Outstanding, and (B) on the Additional Parity Obligations with respect to which such certificate is made.

(2) Upon recommendation of the Qualified Independent Consultants, the Net Revenues certified pursuant to (b) in the previous paragraph may be adjusted for purposes of this Section 20(P) by including: (a) 100% of the additional Net Revenues which in the opinion of the Qualified Independent Consultant would have been derived by the Issuer from rate increases adopted before the Additional Parity Obligations are issued, if such rate increases had been implemented before the commencement of such Bond Year, and (b) 100% of the additional Net Revenues estimated by the Qualified Independent Consultant to be derived during the first full twelve month period after the facilities of the System are extended, enlarged, improved or added to with the proceeds of the Additional Parity Obligations with respect to which such certificate is made.

(3) Upon recommendation of the Qualified Independent Consultants, if the Additional Parity Obligations are to be issued for the purpose of acquiring an existing water system and/or sewer system, the Net Revenues certified pursuant to Section 20(P)(1)(b) may be adjusted by including: 100% of the additional estimated Net Revenues which in the written opinion of the Qualified Independent Consultants will be derived from the acquired facilities during the first full 12-month period after the issuance of such Additional Parity Obligations (the Qualified Independent Consultants' report shall be based on the actual operating revenues of the acquired utility for a recent 12-month period adjusted to reflect the Issuer's ownership and the Issuer's rate structure in effect with respect to the System at the time of the issuance of the Additional Parity Obligations).

(4) Upon recommendation of the Qualified Independent Consultants, if the number of connections as of the first day of the month in which the proposed Additional Parity Obligations are to be issued exceeds the average number of such connections

during such twelve (12) consecutive month period, then the Net Revenues certified pursuant to Section 20(P)(1)(b) may be adjusted to include the Net Revenues which would have been received in such twelve (12) consecutive months if those additional connections had also been connected to the System during all of such twelve (12) consecutive months.

(5) Upon recommendation of the Qualified Independent Consultant, if the Issuer shall have entered into a contract, which contract shall be for a duration of not less than the final maturity of the proposed Additional Parity Obligations, with any public body, whereby the Issuer shall have agreed to furnish services for the collection, treatment or disposal of sewage or agreed to furnish services in connection with any water system or any other utility system, then the Net Revenues certified pursuant to Section 20(P)(1)(b) may be increased (to the extent such amounts were not reflected in such Net Revenues) by the minimum amount which the public body shall guarantee to pay in any one year for the furnishing of services by the Issuer, after deducting from such payment the estimated Cost of Operation and Maintenance attributable in such year to such services.

(6) Upon recommendations of the Qualified Independent Consultants, if there is an estimated increase in Net Revenues to be received by the Issuer as a result of additions, extensions or improvements to the System during the period of three (3) years following the completion of such additions, extensions or improvements financed with the proceeds of Bonds or Additional Parity Obligations, then the Net Revenues derived from the System certified pursuant to Section 20(P)(1)(b) may be increased by fifty percent (50%) of the average annual additional Net Revenues calculated for such three year period.

(7) The Issuer need not comply with the provisions of paragraph (1) of this Section 20(P) if and to the extent the Bonds to be issued are refunding bonds, if the Issuer shall cause to be delivered a certificate of the Finance Director of the Issuer setting forth the Maximum Annual Debt Service Requirement (i) for the Bonds then Outstanding and (ii) for all Series of Bonds to be immediately Outstanding thereafter and stating that the Maximum Annual Debt Service Requirement pursuant to (ii) above is not greater than that set forth pursuant to (i) above.

(8) The Issuer need not comply with the provisions of paragraph (1) of this Section 20(P) if and to the extent the Bonds to be issued are for the purpose of providing any necessary additional funds required for completion of any improvements to the System ("Completion Bonds") if originally financed with the proceeds of Bonds; provided that such Completion Bonds for which the Issuer need not comply with the provision of such paragraph (1) of this Section 20(P) may not exceed 10% of the total principal amount of Bonds estimated to be required for such improvements to the System at the time of issuance of the initial Series of Bonds to finance such improvements.

(9) The Finance Director of the Issuer shall have certified that the Issuer is not in default in the carrying out of any of the obligations assumed under this Resolution and no event of default shall have occurred under this Resolution and shall be continuing, and all payments required by this Resolution to be made into the funds and accounts established hereunder shall have been made to the full extent required.

(10) The Supplemental Resolution authorizing the issuance of the Additional Parity Obligations shall recite that all of the covenants contained herein will be applicable to such Additional Parity Obligations.

(Q) SEWER SYSTEM DEVELOPMENT CHARGES. All Sewer System Development Charges, if any, shall be deposited into the Sewer System Development Charges Fund. All moneys remaining on deposit in such fund shall be utilized on or before the 26th day of each month, as follows:

(1) Such moneys shall, in the case of a deficiency in the Bond Service Fund, first be applied and allocated to the Bond Service Fund to supplement other Pledged Revenues to be deposited therein or in substitution of other Pledged Revenues to be deposited therein.

(2) Thereafter, all moneys in the Sewer System Development Charges Fund may be applied by the Issuer for any use allowed by law.

Notwithstanding any provision of this Resolution to the contrary, the amount of Sewer System Development Charges used for the payment of principal of, redemption premium, if any, and interest on any Series of Bonds in any Bond Year shall never exceed the maximum amount permitted by law.

(R) WATER SYSTEM DEVELOPMENT CHARGES. All Water System Development Charges, if any, shall be deposited into the Water System Development Charges Fund. All moneys remaining on deposit in such fund shall be utilized on or before the 26th day of each month, as follows:

(1) Such moneys shall, in the case of a deficiency in the Bond Service Fund, first be applied and allocated to the Bond Service Fund to supplement other Pledged Revenues to be deposited therein or in substitution of other Pledged Revenues to be deposited therein.

(2) Thereafter, all moneys in the Water System Development Charges Fund may be applied by the Issuer for any use allowed by law.

Notwithstanding any provision of this Resolution to the contrary, the amount of Water System Development Charges used for the payment of principal of, redemption premium, if any, and interest on any Series of Bonds in any Bond Year shall never exceed the maximum amount permitted by law.

(S) RATE STABILIZATION FUND. The Issuer may transfer into the Rate Stabilization Fund such moneys which are on deposit in the Surplus Fund as it deems appropriate. The Issuer may transfer such amount of moneys from the Rate Stabilization Fund to the Revenue Fund as it deems appropriate; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 26<sup>th</sup> day of the month next preceding such payment date), moneys in the Rate Stabilization Fund shall be applied for the payment into the Interest Account, the Parity Contract Obligation 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 and to pay any Parity Contract Obligations, but only to the extent moneys transferred from the Surplus Fund and Renewal, Replacement and Improvement Fund for such purposes pursuant to Sections 20(B)(4) and 20(B)(5) hereof, shall be inadequate to fully provide for such insufficiency.

SECTION 21. Defaults; Events of Default and Remedies. Except as provided below, if any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default:"

- (A) Default in the due and punctual payment of any interest on the Bonds;
- (B) Default in the due and punctual payment of the principal of and premium, if any, on any Bond, at the stated maturity thereof, or upon proceedings for redemption thereof;
- (C) Default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in this Resolution or in the Bonds and the continuance thereof for a period of thirty (30) days after written notice to the Issuer given by the Holders of not less than twenty-five percent (25%) of aggregate principal amount of Bonds then Outstanding (provided, however, that with respect to any obligation, covenant, agreement or condition which requires performance by a date certain, if the Issuer performs such obligation, covenant, agreement or condition within thirty (30) days of written notice as provided above, the default shall be deemed to be cured);
- (D) Failure by the Issuer promptly to remove any execution, garnishment or attachment of such consequence as will materially impair its ability to carry out its obligations hereunder; or
- (E) Any act of bankruptcy or the rearrangement, adjustment or readjustment of the obligations of the Issuer under the provisions of any bankruptcy or moratorium laws or similar laws relating to or affecting creditors' rights.

The term "default" shall mean default by the Issuer in the performance or observance of any of the covenants, agreements or conditions on its part contained in this Resolution, any Supplemental Resolution or in the Bonds, exclusive of any period of grace required to constitute a default or an "Event of Default" as hereinabove provided.

Notwithstanding the foregoing, the occurrence of any default under a Qualified Agreement, including without limitation failure on the part of the Issuer to pay Parity Contract Obligations or to pay a termination fee under a Qualified Agreement, shall not be construed as or deemed to constitute an "Event of Default" hereunder; rather, such occurrence shall be remedied pursuant to such Qualified Agreement and applicable legal and equitable principles taking into account the parity status as to lien on Pledged Revenues which the counterparty to such Qualified Agreement enjoys as to Parity Contract Obligations only, relative to that of the Bondholders and their rights to payments hereunder.

For purposes of Section 21(A) and (B) hereof, no effect shall be given to any payments made under any Bond Insurance Policy.

Any Holder of Bonds issued under the provisions hereof or any trustee acting for the Holders of such Bonds may, either at law or in equity, by suit, action, mandamus or other proceedings in any court of competent jurisdiction, protect and enforce any and all rights existing under State or federal law, or granted and contained herein, and may enforce and compel the performance of all duties required herein or by any applicable law to be performed by the Issuer or by any officer thereof.

Nothing herein, however, shall be construed to grant to any Holder of the Bonds any lien on any property of the Issuer, except the Pledged Revenues.

The foregoing notwithstanding:

(i) No remedy conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, but each remedy shall be cumulative and shall be in addition to any other remedy given to the Bondholders hereunder.

(ii) No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised as often as may be deemed expedient.

(iii) No waiver of any default or Event of Default hereunder by the Bondholders shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

(iv) Acceleration of the payment of principal of and interest on the Bonds shall not be a remedy hereunder in the case of an Event of Default.

Notwithstanding any provision of this Resolution to the contrary, for all purposes of this Section 21, except the giving of notice of any Event of Default to the Holder of the Bonds, any Insurer shall be deemed to be the Holder of the Bonds it has insured.

On the occurrence of an Event of Default, to the extent such rights may then lawfully be waived, neither the Issuer nor anyone claiming through or under it, shall set up, claim or seek to take advantage of any stay or extension laws now or hereafter in force, in order to prevent or hinder the enforcement of this Resolution, and the Issuer, for itself and all who may claim through or under it, hereby waives, to the extent it may lawfully do so, the benefit of all such laws to which it may be entitled.

Within 30 days of knowledge thereof, both the Issuer and the Paying Agent shall provide notice to any and all Insurers of Bonds of the occurrence of any Event of Default.

The respective Insurers of Bonds shall be included as a party in interest and as a party entitled to notify the Issuer of the occurrence of an Event of Default.

Anything in this Resolution to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default, the Insurers of Bonds in default shall be entitled to control and direct the enforcement of all rights and remedies granted to the Bondholders under this Resolution, and the Insurers of Bonds in default shall also be entitled to approve all waivers of events of default.

SECTION 22. Amending and Supplementing of Resolution without Consent of Holders of Bonds. The Issuer, from time to time and at any time and without the consent or concurrence of any Holder of any Bonds, may adopt a Supplemental Resolution amendatory hereof or supplemental hereto if the provisions of such Supplemental Resolution shall not materially adversely affect the rights of the Holders of the Bonds then Outstanding, for any one or more of the following purposes:

(A) To make any changes or corrections in this Resolution as to which the Issuer shall have been advised by Bond Counsel that are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provisions or omission or mistake or manifest error contained in this Resolution, or to insert in this Resolution such provisions clarifying matters or questions arising under this Resolution as are necessary or desirable;

(B) To add additional covenants and agreements of the Issuer for the purpose of further securing the payments of the Bonds and any Parity Contract Obligations;

(C) To surrender any right, power or privilege reserved to or conferred upon the Issuer by the terms of this Resolution;

(D) To confirm, as further assurance, any lien, pledge or charge or the subjection to any lien, pledge or charge, created or to be created by the provisions of this Resolution;

(E) To grant to or confer upon the Holders or any Qualified Agreement Provider any additional right, remedies, powers, authority or security that lawfully may be granted to or conferred upon them;



(F) To assure compliance with federal "arbitrage" provisions in effect from time to time;

(G) To provide such changes as may be necessary in order to adjust the terms hereof (but not including the provisions of Section 20(E) and Section 20(P) hereof) so as to facilitate the issuance of Additional Parity Obligations Variable Rate Bonds, Option Bonds, the execution of any Qualified Agreement, or to obtain a Credit Facility, in each case, in accordance with the terms and conditions hereof;

(H) To provide for the transfer of the ownership and/or operation of the System pursuant to a governmental reorganization as set forth in Section 25 hereof;

(I) To change the series designation of the Series 2007A Bond or the Series 2007B Bond to coincide with the calendar year in which they are executed and delivered;

(J) To modify the definition of "Reserve Fund Requirement;" or

(K) To modify any of the provisions of this Resolution in any other aspects provided that such modifications shall not be effective until after the Bonds Outstanding at the time such Supplemental Resolution is adopted shall cease to be Outstanding, or until the holders thereof consent thereto pursuant to Section 23 hereof, and any Bonds issued subsequent to any such modification shall contain a specific reference to the modifications contained in such Supplemental Resolution.

Except for Supplemental Resolutions providing for the issuance of Bonds pursuant hereto, the Issuer shall not adopt any Supplemental Resolution authorized by the foregoing provisions of this Section unless, in the opinion of Bond Counsel, the adoption of such Supplemental Resolution is permitted by the foregoing provisions of this Section.

Any amendment or supplement to this Resolution, with the exception of (A) through (K) above, shall be subject to the prior written consent of each of the Insurers of the Bonds. Any rating agency rating the Bonds must receive notice of each amendment and a copy thereof at least fifteen (15) days in advance of its execution or adoption. Each of the Insurers of the Bonds shall be provided with a full transcript of all proceedings relating to the execution of any such amendment or supplement.

SECTION 23. Amendment of Resolution with Consent of Holders of Bonds. Except as provided in Section 22 hereof, no material modification or amendment of this Resolution or of any resolution supplemental hereto shall be made without the consent in writing of the Holders of fifty-one percent (51%) or more in the principal amount of the Bonds of each Series so affected and then Outstanding and any Qualified Agreement Provider. For purposes of this Section, to the extent any Bonds are insured by a Bond Insurance Policy or are secured by a Credit Facility and such Bonds are then rated in as high a rating category as the rating category in which such Bonds were rated at the time of initial issuance and delivery thereof by either S&P, Moody's or Fitch or successors and assigns, then the consent of the Insurer or Insurers of

such Bond Insurance Policy or the issuer or issuers of such letter of credit shall be deemed to constitute the consent of the Holder of such Bonds. No modification or amendment shall permit a change in the maturity of such Bonds or a reduction in the rate of interest thereon or in the amount of the principal obligation thereof or reduce the percentage of the Holders of the Bonds required to consent to any material modification or amendment hereof without the consent of the Holder or Holders of all such obligations. For purposes of the immediately preceding sentence, the issuer or issuers of a Bond Insurance Policy or a Credit Facility shall not consent on behalf of the Holders of the Bonds. No amendment or supplement pursuant to this Section 23 (but not including Section 22 hereof) shall be made without the consent of each of the Insurers of Bonds.

Notwithstanding anything else in this Resolution to the contrary, any amendment or supplement to this Resolution, with the exception of (A) through (K) in Section 22 hereof, shall be subject to the prior written consent of each of the Insurers of the Bonds. Any rating agency rating the Bonds must receive notice of each amendment and a copy thereof at least fifteen (15) days in advance of its execution or adoption. Each of the municipal bond insurers of the Bonds shall be provided with a full transcript of all proceedings relating to the execution of any such amendment or supplement.

SECTION 24. Defeasance. The covenants and obligations of the Issuer shall be defeased and discharged under terms of this Resolution as follows:

(A) If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to any Qualified Agreement Provider any and all Parity Contract Obligations and to the Holders of all Bonds the principal, redemption premium, if any, and interest due or to become due thereon, at the times and in the manner stipulated herein, then the pledge of the Pledged Revenues and all covenants, agreements and other obligations of the Issuer to any Qualified Agreement Provider and the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to any Qualified Agreement Provider any and all Parity Contract Obligations and to the Holders of any Outstanding Bonds the principal, redemption premium, if any, and interest due or to become due thereon, at the times and in the manner stipulated herein, such Parity Contract Obligations and such Bonds shall cease to be entitled to any lien, benefit or security under this Resolution, and all covenants, agreements and obligations of the Issuer to any Qualified Agreement Provider and the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

(B) The Bonds, redemption premium, if any, and interest due or to become due for the payment or redemption of which moneys shall have been set aside and shall be held in trust (through deposit by the Issuer of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in paragraph (A) of this Section 24. Subject to the provisions of paragraph (C) and (D) of this Section 24, any Outstanding Bonds shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect

expressed in paragraph (A) of this Section if (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Issuer shall have given to the escrow agent instructions accepted in writing by the escrow agent to notify Holders of Outstanding Bonds in the manner required herein of the redemption of such Bonds on said date, and (ii) there shall have been deposited with the escrow agent either moneys in an amount which shall be sufficient, or Acquired Obligations (including any Acquired Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the escrow agent at the same time, shall be sufficient, to pay when due the principal of and premium, if any, and interest due and to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be. In the event of an advance refunding pursuant to clause (ii) above, the Issuer shall cause to be delivered a verification report of an independent nationally recognized certified public accountant. If a forward supply contract is employed in connection with the refunding, (i) such verification report shall expressly state that the adequacy of the escrow to accomplish the refunding project relies solely on the initial escrowed investments and the maturing principal thereof and interest income thereon and does not assume performance under or compliance with the forward supply contract, and (ii) the applicable escrow agreement shall provide that in the event of any discrepancy or difference between the terms of the forward supply contract and the escrow agreement and this Resolution, the terms of the escrow agreement and this Resolution shall be controlling.

(C) For purposes of determining whether Variable Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of moneys, or Acquired Obligations and moneys, if any, in accordance with paragraph (B) of this Section 24, the interest to come due on such Variable Rate Bonds on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated assuming that interest thereon will accrue at the maximum rate of interest such Variable Rate Bonds may bear pursuant to the Supplemental Resolution authorizing the issuance thereof, or the maximum rate permitted by law if such Supplemental Resolution provides no maximum rate of interest.

(D) Option Bonds shall be deemed to have been paid in accordance with the second sentence of paragraph (B) of this Section 24 only if, in addition to satisfying the requirements of clauses (i) and (ii) of such sentence, there shall have been deposited with the escrow agent moneys in an amount which shall be sufficient to pay when due the maximum amount of principal of and redemption premium, if any, and interest on such Bonds which could become payable to the Holders of such Bonds upon the exercise of any options provided to the Holders of such Bonds; provided, however, that if, at the time a deposit is made with the escrow agent pursuant to paragraph (B) of this Section 24, the options originally exercisable by the Holder of an Option Bond are no longer exercisable, such Bond shall not be considered an Option Bond for purposes of this paragraph (D). If any portion of the moneys deposited with the escrow agent for the payment of the principal of and redemption premium, if any, and interest on Option Bonds is not required for such purpose, the escrow agent shall, if requested by the

Issuer, pay the amount of such excess to the Issuer free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing under the Resolution.

SECTION 25. Governmental Reorganization. Notwithstanding any other provisions of this Resolution, this Resolution shall not prevent any lawful reorganization of the governmental structure of the Issuer, including a merger or consolidation of the Issuer with another public body or the transfer of a public function of the Issuer to another public body, provided that any reorganization which affects the System shall provide that the System shall be continued as a single enterprise and that any public body which succeeds to the ownership and operation of the System shall also assume all rights, powers, obligations, duties and liabilities of the Issuer under this Resolution and pertaining to all Bonds and any Qualified Agreement.

SECTION 26. Qualified Agreements. Any payments received by the Issuer from a Qualified Agreement Provider shall constitute Gross Revenues hereunder. Any payments to a Qualified Agreement Provider under a Qualified Agreement so designated by the Issuer, can constitute Parity Contract Obligations or Subordinated Debt. Notwithstanding the foregoing, termination payments, indemnification payment, or other fees to be paid by the Issuer to a Qualified Agreement Provider under a Qualified Agreement and which do not constitute regularly scheduled payments determined by reference to interest on a notional amount may only constitute Subordinated Debt, and may not constitute Parity Contract Obligations.

The Issuer may enter into one or more Qualified Agreements with respect to one or more Series of Bonds (or portions thereof); provided, however, that if such Qualified Agreement is not entered into at the time of initial issuance of the Series of Bonds to which it relates, the requirements of Section 20(P)(1) hereof must be met, applying the same as if \$1 in principal amount of Additional Parity Bonds is being issued as of the effective date of such Qualified Agreement.

SECTION 27. Payments to Credit Facility. In connection with any Bonds, the Issuer may obtain or cause to be obtained one or more Credit Facilities and agree with any Credit Facility Issuer to reimburse such issuer directly for amounts paid under the terms of such Credit Facility, together with interest thereof; provided, however, that no obligation to reimburse a Credit Facility Issuer shall be created, for purposes of this Resolution, until amounts are paid under such Credit Facility. Such payments are referred to herein as "Reimbursement Obligations." Any Reimbursement Obligation may be secured by a pledge of and a lien on the Pledged Revenues on a subordinate basis to the lien created herein in favor of the Holders of the Bonds and any Qualified Agreement Provider. Any such Reimbursement Obligation shall be deemed to be a part of the Series to which the Credit Facility which gave rise to such Reimbursement Obligation relates. Payments to reimburse the issuer of a Credit Facility shall constitute Subordinated Debt.

SECTION 28. Capital Appreciation Bonds. For the purposes of (i) receiving payment of the redemption price of a Capital Appreciation Bond if redeemed prior to maturity, (ii) computing Bond Service Requirement, and (iii) computing the amount of Holders required for

any notice, consent, request or demand hereunder for any purpose whatsoever, the principal amount of a Capital Appreciation Bond shall be deemed to be its Accreted Value.

SECTION 29. Tax Covenants. With respect to any Bonds for which the Issuer intends on the date of issuance thereof for the interest thereon to be excluded from gross income for purposes of Federal income taxation:

(A) The Issuer shall not use or permit the use of any proceeds of any such Series of Bonds or any other funds of the Issuer, directly or indirectly, to acquire any securities or obligations, and shall not use or permit the use of any amounts received by the Issuer with respect to such Series of Bonds in any manner, and shall not take or permit to be taken any other action or actions, which would cause any such Series of Bonds to be a "private activity bond" within the meaning of Section 141 or an "arbitrage bond" within the meaning of Section 148, or "federally guaranteed" within the meaning of Section 149(b), of the Internal Revenue Code of 1986, as amended (the "Code"), or otherwise cause interest on such Series of Bonds to become subject to federal income taxation.

(B) The Issuer shall, at all times, do and perform all acts and things permitted by law and this Resolution which are necessary or desirable in order to ensure that interest paid on such Series of Bonds will be excluded from gross income for purposes of federal income taxes and shall take no action that would result in such interest not being so excluded.

(C) The Issuer shall pay or cause to be paid to the United States Government any amounts required by Section 148(f) of the Code and the regulations thereunder (the "Regulations"). In order to insure compliance with the rebate provisions of Section 148(f) of the Code with respect to any such Series of Bonds for which the Issuer intends on the date of issuance thereof to be excluded from gross income for purposes of Federal income taxation, the Issuer hereby creates the "City of Naples Public Utilities Rebate Fund" (hereinafter sometimes called the "Rebate Fund") to be held by the Issuer. The Rebate Fund need not be maintained so long as the Issuer timely satisfies its obligation to pay any rebatable earnings to the United States Treasury; however, the Issuer may, as an administrative convenience, maintain and deposit funds in the Rebate Fund from time to time. Any moneys held in the Rebate Fund shall not be considered Pledged Revenues and shall not be pledged in any manner for the benefit of the Holders of the Bonds. Moneys in the Rebate Fund (including earnings and deposits therein) shall be held for future payment to the United States Government as required by the Regulations and as set forth in instructions of Bond Counsel delivered to the Issuer upon issuance of such Bonds.

SECTION 30. Additional Rights to Insurers. All notices required to be given to any party hereunder shall also be given to the Insurer. Pursuant to one or more Supplemental Resolutions, the Issuer may provide additional rights, covenants, agreements and restrictions relating to any Insurer and any Bond Insurance Policy.

SECTION 31. Repealer. All resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION 32. Severability. If any one or more of the covenants, agreements or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid or shall in any manner be held to adversely affect the validity of the Bonds, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Resolution or of the Bonds issued hereunder.

SECTION 33. Sale of Bonds. The Bonds may be issued and sold at public or private sale at one time or in installments from time to time and at such price or prices as shall be consistent with the provisions of the requirements of this Resolution and other applicable provisions of law.

SECTION 34. General Authority. The members of the City Council of the Issuer and the Issuer's officers, attorneys and other agents and employees are hereby authorized to perform all acts and things required of them by this Resolution or desirable or consistent with the requirements hereof for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Bonds and this Resolution, and they are hereby authorized to execute and deliver all documents which shall be required by Bond Counsel to effectuate the sale of the Bonds to said initial purchasers.

SECTION 35. No Third Party Beneficiaries. Except such other Persons as may be expressly described herein, in the Bonds, or in a Qualified Agreement, nothing in this Resolution, or in the Bonds, expressed or implied, is intended or shall be construed to confer upon any Person, other than the Issuer and the Holders, any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof, or of the Bonds or any Qualified Agreement, all provisions hereof and thereof being intended to be and being for the sole and exclusive benefit of the Issuer and the Persons who shall from time to time be the Holders and any Qualified Agreement Provider.

SECTION 36. No Personal Liability. Neither the members of the City Council of the Issuer, any person executing the Bonds, any other charter employees, nor employees of the Issuer shall be personally liable therefor or be subject to any personal liability or accountability by reason of the issuance thereof.

[Remainder of page intentionally left blank]

Section 37: Effective Date. This Resolution shall take effect immediately upon its adoption.

PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 5<sup>TH</sup> DAY OF DECEMBER, 2007.

CITY OF NAPLES, FLORIDA

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Bill Barnett, Mayor

ATTEST:

Approved as to Form and Legality:

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Tara A. Norman, City Clerk

M: \REF\COUNCIL\RES\2007\07-11868

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Robert D. Pritt, City Attorney

Date filed with City Clerk: \_\_\_\_\_

**RESOLUTION NO. 07-11869**

A SUPPLEMENTAL RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$10,000,000 PUBLIC UTILITIES REVENUE BOND, SERIES 2007A TO FINANCE THE COST OF CERTAIN WATER AND SEWER CAPITAL PROJECTS AND TO PAY COSTS RELATED THERETO AND NOT TO EXCEED \$6,100,000 PUBLIC UTILITIES REFUNDING REVENUE BOND, SERIES 2007B TO REFUND CERTAIN INDEBTEDNESS AND TO PAY COSTS RELATED THERETO; AWARDING THE SALE THEREOF TO BRANCH BANKING AND TRUST COMPANY BASED ON THE CONDITIONS DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

**Section 1:** *Authority for this Resolution.* This Resolution is adopted pursuant to the provisions of the Constitution of the State of Florida, Chapter 166, Part II, Florida Statutes, Chapter 1598, Laws of Florida, Acts of 1959, as amended, being the municipal charter of the Issuer, and other applicable provisions of law, and a resolution of even date herewith which was adopted prior to the adoption of this Resolution (the "Bond Resolution").

**Section 2:** *Definitions.* Capitalized undefined terms used herein shall have the meanings ascribed to such terms in the Bond Resolution or below:

"2007 Bonds" means, collectively, the 2007A Bond and the 2007B Bond.

"2007A Maturity Date" means September 1, 2027.

"2007B Maturity Date" means September 1, 2027.

"Original Purchaser" means Branch Banking and Trust Company, Charlotte, North Carolina.

"Principal Office" means, with respect to the Original Purchaser, the office located at 5130 Parkway Plaza Boulevard, Building 9, Charlotte, North Carolina 28217, or such other office as the Original Purchaser may designate to the Issuer in writing.



**Section 3: Findings.**

(A) For the benefit of its inhabitants, the Issuer finds, determines and declares that it is in the best interest of the health and welfare of the residents of the Issuer and other users of the System to issue the 2007A Bond to finance the 2007A Project and to issue the 2007B Bond to currently refund the 2005 Note. Issuance of the 2007A Bond and the 2007B Bond for these respective purposes satisfies a paramount public purpose.

(B) Debt service on the 2007 Bonds will be payable from Pledged Revenues in the manner and to the extent described in the Bond Resolution, as the same become due, and to make all other deposits required by the Bond Resolution.

(C) The Issuer has received an offer from the Original Purchaser to purchase the 2007 Bonds.

(D) In consideration of the purchase and acceptance of the 2007 Bonds authorized to be issued hereunder by those who shall be the Owner thereof from time to time, the Bond Resolution, as supplemented hereby, shall constitute a contract between the Issuer and the Owner.

**Section 4: Authorization of the 2007 Bonds.** Subject and pursuant to the provisions of the Bond Resolution, an obligation of the Issuer to be known as City of Naples, Florida Public Utilities Revenue Bond, Series 2007A (the "2007A Bond") is hereby authorized to be issued under and secured by the Bond Resolution, as hereby supplemented, in the principal amount of not to exceed \$10,000,000, for the purpose of providing funds to pay the costs of design, permitting, acquisition, construction and reconstruction of the 2007A Project, and paying the costs of issuing the 2007A Bond, and an obligation of the Issuer to be known as the City of Naples, Florida Public Utilities Refunding Revenue Bond, Series 2007B (the "2007B Bond") is hereby authorized to be issued under and secured by the Bond Resolution, as hereby supplemented, in the principal amount of not to exceed \$6,100,000 together with other legally available monies of the Issuer not to exceed \$160,000, for the purpose of providing funds to pay the cost of currently refunding the 2005 Note, and paying the costs of issuing the 2007B Bond. Because of the characteristics of the 2007 Bonds, prevailing market conditions, and additional savings to be realized from an expeditious sale of the 2007 Bonds, it is in the best interest of the Issuer to accept the offer of the Original Purchaser to purchase the 2007 Bonds at a private negotiated sale. Prior to the issuance of the 2007 Bonds, the Issuer shall receive from the Original Purchaser a Purchaser's Certificate, the form of which is attached hereto as Exhibit A and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, a form of which is attached hereto as Exhibit B.

**Section 5: Description of the 2007 Bonds.** The 2007 Bonds shall be dated the date of the execution and delivery, which shall be a date agreed upon by the Issuer and the Original Purchaser, and shall have such other terms and provisions, including the interest rate not

exceeding the maximum interest rates permitted by the Act, and principal and interest payment dates and terms, to be determined by the Issuer in accordance with the provisions of the Bond Resolution as hereby supplemented; provided, further, the interest rate on the 2007 Bonds may not exceed 4.50% and the aggregate principal amount of the 2007 Bonds may not exceed \$16,100,000. The 2007A Bond shall have the 2007A Maturity Date and the 2007B Bond shall have the 2007B Maturity Date. The Series 2007 Bonds are to be in substantially the form set forth in the Master Resolution

Notwithstanding anything herein to the contrary, if (i) the interest on the 2007A Bond and/or the 2007B Bond becomes includable in the gross income of the Holder for Federal income tax purposes (an "Event of Taxability") because of any amendments to existing law which would adversely affect the Holder's after-tax yield, or (ii) the 2007A Bond and/or the 2007B Bond shall not be "a qualified tax exempt obligation" as defined in Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, then the Holder shall have the right to adjust the applicable interest rate in order to maintain the same after-tax yield as if the events in (i) or (ii) had not occurred. This adjustment shall survive payment of the 2007A Bond and/or the 2007B Bond until such time as the federal statutes of limitations under which the interest on the 2007A Bond and/or the 2007B Bond could be declared taxable under the Internal Revenue Code of 1986, as amended, shall have expired.

**Section 6: Redemption.** Until September 1, 2017, the 2007 Bonds shall be subject to redemption on any interest payment date at the option of the Issuer in whole or in part at a price equal to 101% of the principal amount thereof to be redeemed, plus accrued interest to the date fixed for redemption. Following September 1, 2017, the 2007 Bonds shall be subject to redemption on any interest payment date at the option of the Issuer in whole or in part at a price equal to the principal amount thereof to be redeemed, plus accrued interest to the date fixed for redemption, without penalty.

At least five (5) days prior to the optional redemption date, written notice of any such redemption identifying the date of redemption shall be mailed, postage prepaid to all registered Owners at their respective addresses as they appear upon the registration books of the Issuer; provided, however, that failure to mail such notice to one or more Owners of the 2007 Bonds shall not affect the validity of the proceedings for such optional redemption with respect to Owners of the 2007 Bonds to which notice was duly mailed hereunder.

**Section 7: Application of Proceeds of 2007 Bonds.** At the time of delivery of the 2007A Bond herein authorized, proceeds from the sale of the 2007A Bond shall be used to finance the design, permitting, acquisition, construction and reconstruction of the 2007A Project and associated costs of issuance (including but not limited to legal and financial advisory fees and expenses) in accordance with the provisions in the next sentence. Net proceeds from the sale of the 2007B Bond herein authorized shall be deposited into the Project Fund and shall be used as described in the Bond Resolution.

At the time of delivery of the 2007B Bond herein authorized, proceeds from the sale of the 2007B Bond, together with other legally available monies of the Issuer not to exceed \$160,000, shall be used to pay for currently refunding the 2005 Note and associated costs of issuance (including but not limited to legal and financial advisory fees and expenses).

**Section 8:** *Tax Covenant; Bank Qualification Status.* (A) The Issuer covenants to the purchasers of the 2007 Bonds provided for in the Bond Resolution that the Issuer will not make any use of the proceeds of the 2007 Bonds at any time during the term of the 2007 Bonds which, if such use had been reasonably expected on the date the 2007 Bonds were issued, would have caused such 2007 Bonds to be "arbitrage bonds" within the meaning of the Code. The Issuer will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to ensure the exclusion of interest on the 2007 Bonds from the gross income of the Holder thereof for purposes of federal income taxation.

(B) The City Council of the Issuer designates the 2007A Bond and any portion of the 2007B Bond that exceeds the principal amount of the 2005 Note (collectively, the "BQ Amount") as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code. The Issuer and any issuer of "tax-exempt" debt that issues "on behalf of" the Issuer do not reasonably expect during the calendar year 2007 to issue more than \$10,000,000 of "tax-exempt" obligations including the BQ Amount designated as described in this Section 8(B), exclusive of any private activity bonds as defined in Section 141(a) of the Code (except for qualified 501(c)(3) bonds as defined in Section 145 of the Code).

The portion of the 2007B Bond that is not being designated as "qualified tax-exempt obligations" under the preceding paragraph is deemed designated as "qualified tax-exempt obligations" under Section 265(b)(3) of the Code.

**Section 9:** *Amendment.* The Bond Resolution shall not be modified or amended in any respect subsequent to the issuance of the 2007 Bonds except with the written consent of all of the Owners of the 2007 Bonds.

**Section 10:** *Limitation of Rights.* With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from the Bond Resolution or the 2007 Bonds is intended or shall be construed to give to any Person other than the Issuer and the Owner any legal or equitable right, remedy or claim under or with respect to the Bond Resolution or any covenants, conditions and provisions herein contained; the Bond Resolution and all of the covenants, conditions and provisions thereof being intended to be and being for the sole and exclusive benefit of the Issuer and the Owner.

**Section 11:** *Impairment of Contract.* The Issuer covenants with the Owners of the 2007 Bonds that it will not, without the written consent of the Owners of the 2007 Bonds, enact any ordinance or adopt any resolution which repeals, impairs or amends in any manner adverse to the Owners the rights granted to the Owners of the 2007 Bonds hereunder.

**Section 12:** *Further Covenants.* The Issuer shall provide the Holder of the 2007 Bonds with a copy of its annual budget within 30 days of its adoption and such other financial information regarding the Issuer as the Holder of the 2007 Bonds may reasonably request. The Issuer hereby covenants that it shall promptly give written notice to the Holder of the 2007 Bonds of any litigation or proceeding which if determined adversely to the Issuer would adversely affect the security for the payment of the 2007 Bonds. The Issuer shall provide the Holder of the 2007 Bonds with annual financial statements for each fiscal year of the Issuer not later than March 31st after the close of such fiscal year, prepared in accordance with applicable law and generally accepted accounting principles and audited by an independent certified public accountant. All accounting terms not specifically defined or specified herein shall have the meanings attributed to such terms under generally accepted accounting principles as in effect from time to time, consistently applied.

**Section 13:** *Severability.* If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

**Section 14:** *Business Days.* In any case where the due date of interest on or principal of a 2007 Bonds is not a Business Day, then payment of such principal or interest need not be made on such date but may be made on the next succeeding Business Day, provided that credit for payments made shall not be given until the payment is actually received by the Owner.

**Section 15:** *Applicable Provisions of Law.* This Resolution shall be governed by and construed in accordance with the laws of the State.

**Section 16:** *Rules of Interpretation.* Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

**Section 17:** *Captions.* The captions and headings in this Resolution is for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

**Section 18:** *City Council of the Issuer Exempt from Personal Liability.* No recourse under or upon any obligation, covenant or agreement of this Resolution or the 2007 Bonds or for any claim based thereon or otherwise in respect thereof, shall be had against any City Council of the Issuer, as such, of the Issuer, past, present or future, either directly or through the Issuer it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the City Council of the Issuer, charter officials, the Finance Director and other appropriate officials of the Issuer, as such, under or by reason of the obligations, covenants or

agreements contained in this Resolution or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such City Council of the Issuer, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution and the issuance of the 2007 Bonds, on the part of the Issuer.

**Section 19:** *Authorizations.* The Mayor and any member of the City Council, the City Manager, the City Attorney, the City Clerk, the Finance Director and such other officials and employees of the Issuer as may be designated by the Issuer are each designated as agents of the Issuer in connection with the issuance and delivery of the 2007 Bonds and are authorized and empowered, collectively or individually, to take all action and steps and to execute all instruments, documents, and contracts on behalf of the Issuer that are necessary or desirable in connection with the execution and delivery of the 2007 Bonds, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

**Section 20:** *Repealer.* All resolutions or parts thereof in conflict herewith are hereby repealed.

**Section 21:** *No Third Party Beneficiaries.* Except such other persons as may be expressly described in the Bond Resolution or in the 2007 Bonds, nothing in the Bond Resolution or in the 2007 Bonds, expressed or implied, is intended or shall be construed to confer upon any person, other than the Issuer and the Owner, any right, remedy or claim, legal or equitable, under and by reason of this Resolution, or any provision thereof, or of the 2007 Bonds, all provisions thereof being intended to be and being for the sole and exclusive benefit of the Issuer and the persons who shall from time to time be the Holder.

[Remainder of page intentionally left blank]

**Section 22:** *Effective Date.* This Resolution shall take effect immediately upon its adoption.

PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 5<sup>TH</sup> DAY OF DECEMBER, 2007.

CITY OF NAPLES, FLORIDA

\_\_\_\_\_  
Bill Barnett, Mayor

ATTEST:

Approved as to Form and Legality:

\_\_\_\_\_  
Tara A. Norman, City Clerk

M:\REF\COUNCIL\RES\2007\07-11869

\_\_\_\_\_  
Robert D. Pritt, City Attorney

Date filed with City Clerk:\_\_\_\_\_

**EXHIBIT A**

**FORM OF PURCHASER'S CERTIFICATE**

This is to certify that Branch Banking and Trust Company (the "Purchaser") has not required the City of Naples, Florida (the "Issuer") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the Issuer in connection with the issuance of the \$\_\_\_\_\_ City of Naples, Florida Public Utilities Revenue Bond, Series 2007A, dated \_\_\_\_\_, 2007 (the "2007A Bond") and the \$\_\_\_\_\_ City of Naples, Florida Public Utilities Refunding Revenue Bond, Series 2007B, dated \_\_\_\_\_, 2007 (the "2007B Bond" and together with the 2007A Bond, collectively the "2007 Bonds"), and no inference should be drawn that the Purchaser, in the acceptance of the 2007 Bonds, is relying on Bond Counsel or Issuer's Counsel as to any such matters other than the legal opinion rendered by Bond Counsel, Bryant Miller Olive P.A. and by Issuer's Counsel, Robert D. Pritt, City Attorney. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in Resolution No. 07-\_\_ adopted by the City Council of the Issuer on \_\_\_\_\_, 2007, as supplemented (the "Resolution").

We acknowledge and understand that the Resolution is not being qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"), and is not being registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and/or Section 517.061(7), Florida Statutes, and that neither the Issuer, Bond Counsel nor Issuer's Counsel shall have any obligation to effect any such registration or qualification.

We are not acting as a broker or other intermediary, and are purchasing the 2007 Bonds as an investment for our own account and not with a present view to a resale or other distribution to the public. We understand that the 2007 Bonds may not be transferred except to a bank, savings association, insurance company or other "accredited investor" as described below in accordance with the restrictions set forth in the 2007 Bonds.

We are a wholly-owned subsidiary of a bank, as contemplated by Section 517.061(7), Florida Statutes. We are not purchasing the 2007 Bonds for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

[Remainder of page intentionally left blank]

We are an "accredited investor" as such term is defined in the Securities Act of 1933, as amended, and Regulation D thereunder.

DATED this 11<sup>th</sup> of December, 2007.

BRANCH BANKING AND TRUST  
COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT B**

**FORM OF DISCLOSURE LETTER**

The undersigned, as purchaser, proposes to negotiate with the City of Naples, Florida (the "Issuer") for the private purchase of the \$\_\_\_\_\_ City of Naples, Florida Public Utilities Revenue Bond, Series 2007A (the "2007A Bond") and the \$\_\_\_\_\_ City of Naples, Florida Public Utilities Refunding Revenue Bond, Series 2007B (the "2007B Bond" and together with the 2007A Bond, collectively the "2007 Bonds"). Prior to the award of the 2007 Bonds, the following information is hereby furnished to the Issuer:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Purchaser") in connection with the issuance of the 2007 Bonds (such fees and expenses to be paid by the Issuer):

\_\_\_\_\_  
Purchaser Counsel Fees -- \$\_\_\_\_\_

2. (a) No other fee, bonus or other compensation is estimated to be paid by the Purchaser in connection with the issuance of the 2007 Bonds to any person not regularly employed or retained by the Purchaser (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Purchaser, as set forth in paragraph (1) above:

None

(b) No person has entered into an understanding with the Purchaser, or to the knowledge of the Purchaser, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Purchaser or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the 2007 Bonds.

3. The amount of the underwriting spread expected to be realized by the Bank is \$\_\_\_\_\_ (\$\_\_\_\_\_ per \$1,000).

4. The management fee to be charged by the Bank is \$0.

5. Truth-in-Bonding Statement:

The 2007A Bond is being issued primarily to finance the design, permitting, acquisition, construction and reconstruction of water and sewer capital projects, and paying the costs of issuing the 2007A Bond.

The 2007B Bond is being issued for the purpose of providing funds to pay the cost of currently refunding the 2005 Note, and paying the costs of issuing the 2007B Bond.

The 2007A Bond is expected to be repaid at the end of twenty years. At an interest rate of \_\_\_\_%, total interest paid over the life of the 2007A Bond is estimated to be \$\_\_\_\_\_.

The 2007B Bond is expected to be repaid at the end of twenty years. At an interest rate of \_\_\_\_%, total interest paid over the life of the 2007B Bond is estimated to be \$\_\_\_\_\_.

The 2007 Bonds will be payable solely from Pledged Revenues sufficient to make such payments, appropriated and deposited as described in Resolution No. 07-\_\_ of the Issuer adopted on \_\_\_\_\_, 2007, as supplemented (the "Resolution"). See the Resolution for a definition of Pledged Revenues. Issuance of the 2007 Bonds are estimated to result in an annual average of approximately \$\_\_\_\_\_ of revenues of the Issuer not being available to finance the services of the Issuer during the life of the 2007 Bonds.

6. The name and address of the Purchaser is as follows:

Branch Banking and Trust Company  
Governmental Finance  
5130 Parkway Plaza Boulevard  
Building 9  
Charlotte, North Carolina 28217

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Statement on behalf of the Purchaser this 11<sup>th</sup> day of December, 2007.

BRANCH BANKING AND TRUST  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_