

**COMMON COUNCIL  
OF THE  
CITY OF APPLETON, WISCONSIN**

**October 7, 2015**

**Resolution No. None**

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**A Resolution Authorizing and Providing for the Sale and Issuance of  
\$22,735,000 Water System Revenue Refunding Bonds, Series 2015  
and All Related Details**

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**RECITALS**

The Common Council (the “**Governing Body**”) of the City of Appleton, Wisconsin (the “**Municipality**”) makes the following findings and determinations:

1. The Municipality currently owns and operates a municipal water system (the “**System**”, as more fully defined below), which is a “public utility” (within the meaning of Section 66.0621 (1) (b) of the Wisconsin Statutes).
2. Under the provisions of Section 66.0621 of the Wisconsin Statutes, as amended (the “**Act**”), the Municipality may, by action of the Governing Body, provide for, among other things, the acquisition, construction, extension, improvement, operation, and management of the System, and the refunding of municipal obligations issued for such purposes, from the proceeds of obligations that are payable only from the income and revenues derived from the operation of the System.
3. On January 17, 2007, the Governing Body adopted a resolution (the “**2007A Resolution**”) authorizing the issuance of the Municipality’s \$58,510,000 Water System Revenue Refunding Bonds, Series 2007A, dated February 6, 2007 (the “**Series 2007A Bonds**”). The Series 2007A Bonds are currently outstanding in the aggregate principal amount of \$31,555,000.
4. On February 7, 2007, the Governing Body adopted a resolution (the “**2007C Resolution**”) authorizing the issuance of the Municipality’s \$12,140,000 Water System Revenue Bonds, Series 2007C, dated March 1, 2007 (the “**Series 2007C Bonds**”). The Series 2007C Bonds are currently outstanding in the aggregate principal amount of \$8,845,000.
5. On December 3, 2008, the Governing Body adopted a resolution (the “**2008 Resolution**”) authorizing the issuance of the Municipality’s \$15,215,000 Water System Revenue Bonds, Series 2008, dated December 17, 2008 (the “**Series 2008 Bonds**”). The Series 2008 Bonds are currently outstanding in the aggregate principal amount of \$11,740,000.
6. On August 3, 2011, the Governing Body adopted a resolution (the “**2011 Resolution**”) authorizing the issuance of the Municipality’s \$3,170,000 Water System Revenue

Bonds, Series 2011, dated August 24, 2011 (the “**Series 2011 Bonds**”). The Series 2011 Bonds are currently outstanding in the aggregate principal amount of \$2,795,000.

7. On July 18, 2012 the Governing Body adopted a resolution (the “**2012 Resolution**”) authorizing the issuance of the Municipality’s \$2,510,000 Water System Revenue Bonds, Series 2012, dated August 8, 2012 (the “**Series 2012 Bonds**”). The Series 2012 Bonds are currently outstanding in the aggregate principal amount of \$2,305,000.

8. On July 24, 2013 the Governing Body adopted a resolution (the “**2013 Resolution**”) authorizing the issuance of the Municipality’s \$7,180,000 Water System Revenue Bonds, Series 2013, dated August 7, 2013 (the “**Series 2013 Bonds**”). The Series 2013 Bonds are currently outstanding in the aggregate principal amount of \$6,910,000.

9. On October 20, 2014 the Governing Body adopted a resolution (the “**2014 Resolution**”) authorizing the issuance of the Municipality’s \$3,850,000 Water System Revenue Bonds, Series 2014, dated September 10, 2014 (the “**Series 2014 Bonds**”). The Series 2014 Bonds are currently outstanding in the aggregate principal amount of \$3,850,000.

10. No other outstanding obligations are payable from the income and revenues derived from the operation of the System.

11. The Municipality needs funds to finance (i) certain additions, extensions, and improvements to the System, including, but not limited to, construction of and improvements to water mains and intakes, improvements to the meter reading system, and construction of a water tower (collectively, the “**Project**”) and (ii) the advance refunding of certain outstanding maturities of the Series 2007C Bonds and the Series 2008 Bonds as described herein (collectively, the “**Refunding**”).

12. The Governing Body wishes to finance the costs of the Project and the Refunding by authorizing, selling, and issuing \$22,735,000 in principal amount of Water System Revenue Refunding Bonds, Series 2015 (the “**Bonds**”). The Bonds will be issued pursuant to the Act, on the terms and conditions described in this resolution, and will be secured by and payable from the income and revenues derived and to be derived from the operation of the System. The Bonds will be issued on a parity and equality of rank with the Series 2007A Bonds, the Series 2007C Bonds, the Series 2008 Bonds, the Series 2011 Bonds, the Series 2012 Bonds, the Series 2013 Bonds, and the Series 2014 Bonds (collectively, the “**Outstanding Bonds**”).

13. Section 21 of the 2007A Resolution (the “**Additional Bonds Test**”), which section is continued under each of the resolutions authorizing the issuance of the Outstanding Bonds, authorizes the issuance of additional bonds on a parity and equality of rank with the Outstanding Bonds upon compliance with the conditions set forth under the Additional Bonds Test. All conditions set forth under the Additional Bonds Test have been or will be satisfied prior to the issuance of the Bonds.

14. In accordance with the provisions of Section 66.0621 (4) (a) 2 of the Wisconsin Statutes and this resolution: (i) interest on the Bonds will be payable at least annually, and (ii) payment of principal of the Bonds will commence not later than 3 years after the date of issuance of the Bonds. The requirement each year to pay both principal of, and interest on, the

Bonds will be reasonable and in accordance with prudent municipal utility management practices.

15. Robert W. Baird & Co. Incorporated, or a group that it represents (the “**Bond Purchaser**”) has offered to purchase the Bonds for \$23,900,732.57 plus payment by the Bond Purchaser on behalf of the Municipality of \$68,759.03 for the costs of issuing the Bonds (the “**Purchase Price**”).

16. The Municipality has taken all actions required by law and has the power to sell and issue the Bonds.

17. The Governing Body will adopt this resolution to sell and issue the Bonds.

### **RESOLUTIONS**

The Governing Body resolves as follows:

#### **Section 1. Definitions.**

In addition to the capitalized terms defined in the recitals above, capitalized terms not otherwise defined in this resolution shall have the meanings set forth below unless the context requires another meaning.

“**Act**” means Section 66.0621 of the Wisconsin Statutes, as amended.

“**Bond Counsel**” means (i) as of the Original Issue Date, Foley & Lardner LLP, and (ii) after the Original Issue Date, either Foley & Lardner LLP or any other nationally recognized firm of attorneys, employed by the Municipality, experienced in municipal finance whose legal and tax opinions are generally accepted by purchasers of municipal obligations.

“**Bonds**” means the \$22,735,000 City of Appleton, Wisconsin Water System Revenue Refunding Bonds, Series 2015, which will be issued pursuant to this resolution.

“**Bond Purchaser**” has the meaning set forth in the recitals to this resolution.

“**Bond Register**” means the register maintained by the Fiscal Agent at its designated office, in which the Fiscal Agent records:

- (i) the name and address of the owner of each Bond.
- (ii) all transfers of each Bond.

“**Book-Entry System**” means a system in which no physical distribution of certificates representing ownership of the Bonds is made to the owners of the Bonds but instead all outstanding Bonds are registered in the name of a securities depository appointed by the Municipality, or in the name of such a depository’s nominee, and the depository and its participants record beneficial ownership and transfers of the Bonds electronically.

“**Code**” means the Internal Revenue Code of 1986, as amended.

**“Continuing Disclosure Agreement”** means the Continuing Disclosure Agreement, dated as of the Original Issue Date, to be executed by the Municipality and delivered on the closing date of the Bonds.

**“Current Expenses”** means the reasonable and necessary cost of operating, maintaining, administering, insuring, and repairing the System. Current Expenses shall be determined in accordance with generally accepted accounting principles and shall include, but not be limited to, salaries, premiums for insurance, wages, cost of materials and supplies, and insurance and audits. Current Expenses shall exclude allowances for depreciation, debt service on obligations of the System, tax equivalents, capital expenditures, and accumulations of reserves.

**“Depository”** means DTC or any successor appointed by the Municipality and acting as securities depository for the Bonds.

**“DTC”** means The Depository Trust Company.

**“Escrow Account”** means the escrow account created under the Escrow Agreement.

**“Escrow Agent”** means Associated Trust Company, National Association.

**“Escrow Agreement”** means the escrow agreement to be entered into between the Issuer and the Escrow Agent to effect the refunding of the Refunded Bonds.

**“Financial Officer”** means the Municipality’s Director of Finance.

**“Fiscal Agent”** means the Municipality’s Director of Finance or any successor fiscal agent appointed by the Municipality to act as authentication agent, paying agent, and registrar for the Bonds pursuant to Section 67.10 (2) of the Wisconsin Statutes.

**“Fiscal Year”** means the twelve-month period beginning on January 1 of each year and ending on December 31 of each year. The Municipality may change the Fiscal Year of the System if the Original Purchasers consent to the change. If the Original Purchasers consent to the change, then the change will not constitute a modification, change, amendment, or alteration of this resolution for purposes of Section 24 of this resolution.

**“Governing Body”** means the Municipality’s Common Council.

**“Gross Revenues”** means the gross revenues of the System from all sources, excluding (i) customer deposits, (ii) collected taxes imposed by other governmental entities, and (iii) earnings on amounts held in the Special Redemption Fund.

**“Independent Consultant”** means a recognized engineer or firm of engineers or a recognized certified public accountant or firm of certified public accountants who or which is not an officer or regular employee of the Municipality or the System and who or which is not devoting substantially all of his, her, or its time and efforts to the affairs of the System.

“**Minimum Reserve Amount**” means the least of the following: (i) the maximum annual debt service coming due in any future year on the Bonds and Parity Bonds then outstanding, (ii) 10% of the then outstanding principal amount of the Bonds and Parity Bonds, or (iii) 125% of the average annual debt service on the Bonds and Parity Bonds then outstanding.

“**Municipal Officers**” means the Mayor and Clerk of the Municipality. These are the officers required by law to execute revenue obligations on the Municipality’s behalf.

“**Municipality**” means the City of Appleton, Wisconsin.

“**Net Revenues**” means Gross Revenues after deduction of Current Expenses, plus earnings on moneys held in the Special Redemption Fund.

“**Original Issue Date**” means October 28, 2015.

“**Original Purchasers**” means the combined reference to the Bond Purchaser and the initial purchaser of each issue of Parity Bonds (including the Outstanding Bonds), so long as the issue of Parity Bonds remains outstanding.

“**Outstanding Bonds**” has the meaning given in the recitals to this resolution.

“**Parity Bonds**” means all other obligations payable from the revenues of the System (including the Outstanding Bonds) other than the Bonds, but issued on a parity and equality with the Bonds and the Outstanding Bonds pursuant to the restrictive provisions of Section 21 of this resolution.

“**Prior Resolutions**” means, collectively, the 2007A Resolution, the 2007C Resolution, the 2008 Resolution, the 2011 Resolution, the 2012 Resolution, the 2013 Resolution, and the 2014 Resolution, each as defined in the recitals to this resolution.

“**Project**” has the meaning given in the recitals to this resolution.

“**Purchase Price**” has the meaning given in the recitals to this resolution.

“**Record Date**” means the 15th day (whether or not a business day) of the calendar month just before each regularly scheduled interest payment date for the Bonds.

“**Recording Officer**” means the Municipality’s Clerk.

“**Redemption Date**” means, collectively, January 1, 2017 for the Series 2007C Refunded Bonds, and January 1, 2018 for the Series 2008 Refunded Bonds.

“**Refunded Bonds**” means collectively, the Series 2007C Refunded Bonds and Series 2008 Refunded Bonds.

“**Refunding**” means the advance refunding of the Refunded Bonds.

“**Series 2007C Refunded Bonds**” means the 2018 through and including 2026 maturities of the Series 2007C Bonds, as defined in the recitals to this resolution.

“**Series 2008 Refunded Bonds**” means the 2019 through and including 2028 maturities of the Series 2008 Bonds, as defined in the recitals to this resolution.

“**Special Redemption Fund**” means the fund designated as such and described in Section 18 of this resolution.

“**System**” means the water utility of the Municipality, which shall include all property of every nature now or hereafter owned by the Municipality for the extraction, collection, storage, treatment, transmission, distribution, metering, and discharge of domestic, industrial, and potable public water, or constituting part of, or used or useful in connection with the water utility of the Municipality; and including all improvements and extensions thereto made by the Municipality while any of the Bonds or Parity Bonds remain outstanding and including all appurtenances, contracts, leases, franchises, and other intangibles.

## **Section 2. Exhibits.**

The attached exhibits are also a part of this resolution as though they were fully written out in this resolution:

- (i) *Exhibit A* - Form of Bond.
- (ii) *Exhibit B* - Notice to Electors of Sale.

## **Section 3. Purposes of Borrowing; Issuance of Bonds.**

The Governing Body authorizes the Bonds and orders that they be prepared, executed, and issued. The Bonds will be fully registered, negotiable, water system revenue refunding bonds of the Municipality in the aggregate principal amount of \$22,735,000. The Bonds will be issued under the provisions of the Act for the purposes of the Project and the Refunding and to pay the expenses of issuing the Bonds (including, but not limited to, printing costs and fees for financial consultants, bond counsel, rating agencies, bond insurance, and registration, as applicable).

## **Section 4. Terms of Bonds.**

The Bonds will be named “City of Appleton, Wisconsin Water System Revenue Refunding Bonds, Series 2015.” The Bonds will be dated the Original Issue Date, even if they are actually issued or executed on another date. Each Bond will also be dated the date on which it is authenticated by the Fiscal Agent. That date is its registration date.

The face amount of each Bond will be \$5,000 or any multiple thereof up to the principal amount authorized for that maturity.

The Bonds will bear interest from the Original Issue Date. Interest on the Bonds will be payable on each January 1 and July 1 until the principal of the Bonds has been paid, beginning on January 1, 2016. Interest on each Bond will be (i) computed on the basis of a 360-day year of twelve 30-day months and (ii) payable to the entity or person in whose name the Bond is registered on the Bond Register at the end of the day on the applicable Record Date.

The Municipality and the Fiscal Agent may treat the entity or person in whose name any Bond is registered on the Bond Register as the absolute owner of the Bonds for all purposes whatsoever under this resolution. The Bonds will be numbered consecutively as may be required to comply with any applicable rules or customs or as determined by the Municipal Officers executing the Bonds.

The following table shows when the Bonds will mature and the rate of interest each maturity will bear:

<u>Principal Maturity Date (January 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Principal Maturity Date (January 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2017	\$ 325,000	2.00%	2027	\$1,400,000	3.00%
2018	1,015,000	2.00	2028	1,450,000	4.00
2019	1,790,000	3.00	2029	310,000	4.00
2020	1,845,000	3.00	2030	325,000	4.00
2021	1,900,000	3.00	2031	340,000	4.00
2022	1,960,000	3.00	2032	350,000	3.25
2023	2,025,000	4.00	2033	365,000	4.00
2024	2,110,000	4.00	2034	375,000	3.50
2025	2,190,000	4.00	2035	390,000	3.50
2026	2,270,000	3.00			

The principal of, and interest on, the Bonds will be payable in lawful money of the United States of America.

**Section 5. Fiscal Agent.**

The Municipality appoints the Fiscal Agent to act as paying agent and registrar for the Bonds. Among other things, the Fiscal Agent shall maintain the Bond Register.

**Section 6. Appointment of Depository.**

The Municipality appoints DTC to act as securities depository for the Bonds. An authorized representative of the Municipality has previously executed a blanket issuer letter of representations with DTC on the Municipality’s behalf, and the Municipality ratifies and approves that document.

**Section 7. Book-Entry System.**

On the date of their initial delivery, the Bonds will be registered in the name of DTC or its nominee and maintained in a Book-Entry System. If the Municipality’s relationship with DTC is terminated, then the Municipality may appoint another securities depository to maintain the Book-Entry System.

If at any time the Bonds are not being maintained in a Book-Entry System, then the Municipality will do the following:

- (i) At its expense, the Municipality will prepare, authenticate, and deliver to the beneficial owners of the Bonds fully-registered, certificated Bonds in the denomination of \$5,000 or any multiple thereof in the aggregate principal amount then outstanding. The beneficial owners will be those shown on the records of the Depository and its direct and indirect participants.
- (ii) The Municipality will appoint a fiscal agent to act as paying agent and registrar for the Bonds under Section 67.10 (2) of the Wisconsin Statutes.

**Section 8. Redemption.**

The Bonds maturing on and after January 1, 2024 are subject to redemption before their stated maturity dates, at the Municipality's option, in whole or in part, as selected by the Municipality, on January 1, 2023 and on any date thereafter. The redemption price will be 100% of the principal amount redeemed, plus accrued interest to the redemption date, and no premium will be paid. If payment of a Bond called for redemption has been made or provided for, then interest on the Bond stops accruing on the stated redemption date. If less than all outstanding Bonds are redeemed, then the Bonds will be redeemed in \$5,000 multiples in accordance with Sections 9 and 10 hereof.

**Section 9. Manner of Payment/Transfers/Redemption Notices Under Book-Entry System.**

So long as the Bonds are being maintained in a Book-Entry System, the following provisions apply:

*Payment.* The Fiscal Agent is directed to pay the principal of, and interest on, the Bonds by wire transfer to the Depository or its nominee in accordance with the Depository's rules that are then in effect.

*Transfers.* The Bonds are transferable, only upon the Bond Register and only if the Depository ceases to act as securities depository for the Bonds and the Municipality appoints a successor securities depository. If that happens, then upon the surrender of the Bonds to the Fiscal Agent, the Municipality will issue new fully registered Bonds in the same aggregate principal amounts to the successor securities depository, and the Bonds will be recorded as transferred to the successor securities depository in the Bond Register.

The Fiscal Agent will not be required to make any transfer of the Bonds (i) during the 15 calendar days before the date of the sending of notice of any proposed redemption of the Bonds, or (ii) with respect to any particular Bond, after such Bond has been called for redemption.

*Partial Redemption.* If less than all the principal amount of a specific maturity is to be redeemed, then the Depository and its direct and indirect participants will select the



beneficial owners of the Bonds to be redeemed. If a Bond has been called for redemption but less than all the principal amount of a specific maturity is redeemed, then on the redemption date and upon surrender to the Fiscal Agent of the Bond, the Municipality will issue one or more new Bonds in the principal amount outstanding after the redemption.

*Notice of Redemption.* Notice of the redemption of any of the Bonds will be sent to the Depository, in the manner required by the Depository, not less than 30, and not more than 60, days prior to the proposed redemption date. A notice of redemption may be revoked by sending notice to the Depository, in the manner required by the Depository, not less than 15 days prior to the proposed redemption date.

**Section 10. Manner of Payment/Transfers/Redemption Notices Not Under Book-Entry System.**

If at any time the Bonds are not being maintained in a Book-Entry System, then the following provisions apply:

*Payment.* The Fiscal Agent will pay the principal of each Bond upon its presentation and surrender on or after its maturity or earlier redemption date at the designated office of the Fiscal Agent, and the Fiscal Agent will pay, on each interest payment date, the interest on each Bond by wire or other electronic money transfer, or by check of the Fiscal Agent sent by first class mail, to the person in whose name the Bond is registered on the Bond Register at the end of the day on the applicable Record Date.

*Transfers.* Each Bond is transferable, only upon the Bond Register, for a like aggregate principal amount of the same maturity and interest rate in denominations of \$5,000 or any multiple thereof. A transfer may be requested by the registered owner in person or by a person with a written power of attorney. The Bond shall be surrendered to the Fiscal Agent, together with a written instrument of transfer satisfactory to the Fiscal Agent signed by the registered owner or by the person with the written power of attorney. The Municipality will issue one or more new fully registered Bonds in the same aggregate principal amount to the transferee or transferees, as applicable, in exchange for the surrendered Bonds and upon the payment of a charge sufficient to reimburse the Municipality or the Fiscal Agent for any tax, fee, or other governmental charge required to be paid with respect to such registration.

The Fiscal Agent will not be required to make any transfer of the Bonds (i) during the 15 calendar days before the date of the sending of notice of any proposed redemption of the Bonds, or (ii) with respect to any particular Bond, after the Bond has been called for redemption.

*Partial Redemptions.* If less than all the principal amount of a specific maturity is to be redeemed, then the Municipality or the Fiscal Agent will randomly select the Bonds to be redeemed. If a Bond has been called for redemption but less than all the principal amount of a specific maturity is redeemed, then on the redemption date and upon surrender to the Fiscal Agent of the Bond, the Municipality will issue one or more new Bonds in the principal amount outstanding after the redemption.

*Notice of Redemption.* Notice of the redemption of any of the Bonds shall be sent by first-class mail not less than 30, and not more than 60, days before the redemption date to the

registered owners of the Bonds to be redeemed, at the respective addresses set forth in the Bond Register. A notice of redemption may be revoked by sending a notice by first class mail not less than 15 days prior to the proposed redemption date to the registered owners of the Bonds which have been called for redemption.

**Section 11. Form of Bonds.**

The Bonds shall be in substantially the form shown in Exhibit A hereto. Omissions, insertions, or variations are permitted if they are deemed necessary or desirable and are consistent with this resolution or any supplemental resolution. The Municipality may cause the approving opinion of bond counsel to be printed or reproduced on the Bonds.

**Section 12. Execution of Bonds.**

The Bonds shall be signed by the persons who are the Municipal Officers on the date on which the Bonds are signed. The Bonds shall be sealed with the Municipality's corporate seal (or a facsimile thereof), if the Municipality has one, and the Bonds shall also be authenticated by the manual signature of the Fiscal Agent.

The Bonds will be valid and binding even if before they are delivered any person whose signature appears on the Bonds is no longer living or is no longer the person authorized to sign the Bonds. In that event, the Bonds will have the same effect as if the person were living or were still the person authorized to sign the Bonds.

A facsimile signature may be used as long as at least one signature of a Municipal Officer is a manual signature or the Fiscal Agent's certificate of authentication has a manual signature. If a facsimile signature is used, then it will be treated as the officer's own signature.

**Section 13. Continuing Disclosure.**

The appropriate officers of the Municipality are directed to sign the Continuing Disclosure Agreement, and the Municipality agrees to comply with all of its terms.

**Section 14. Payable Only From Special Redemption Fund.**

The Bonds and any Parity Bonds, together with interest thereon, will be payable only out of the Special Redemption Fund as provided in the Prior Resolutions and in this resolution. The registered owners of the Bonds and any Parity Bonds will have a valid claim only against the Special Redemption Fund and the revenues pledged to such fund.

**Section 15. Pledge.**

The Municipality pledges the revenues of the System to the Special Redemption Fund to pay the principal of, and interest on, the Bonds, the Outstanding Bonds, and any Parity Bonds as provided in this resolution. Such revenues will be used for no purpose other than to pay the principal of and interest on the Bonds, the Outstanding Bonds, and any Parity Bonds on the dates on which such amounts are due. The Bonds, the Outstanding Bonds, and any Parity Bonds, together with the interest thereon, shall not constitute an indebtedness of the Municipality

within the meaning of any constitutional or statutory limitation or provision and shall not constitute a general obligation of the Municipality or a charge against its general credit or taxing power. The Municipality will not be liable for the payment of the principal of, and interest on, the Bonds, except as provided in this resolution.

**Section 16. Equality of Lien.**

All Bonds, Outstanding Bonds, and any Parity Bonds, regardless of issue dates, maturity dates, or series designations, will be secured equally by the pledge of the Net Revenues of the System and all amounts in the Special Redemption Fund.

**Section 17. No Senior Bonds; Parity Bonds.**

Except as permitted by Section 21(a) of this resolution, the Municipality will issue no bonds or other obligations payable from the revenues of the System, or enjoying a lien on the revenues or property of the System, that have a priority over the Bonds with respect to their payment or security. The Municipality may issue Parity Bonds on the terms and conditions set forth in Section 21 of this resolution.

**Section 18. Funds and Accounts.**

(a) Creation of Funds and Accounts; Purposes.

The Municipality affirms, continues, and creates, as applicable, the following funds and accounts of the System (collectively, the “**Funds and Accounts**”) to provide for the collection, distribution, and use of the Gross Revenues and the proceeds of the Bonds:

- (1) Water System Revenue Fund (the “**Revenue Fund**”), into which the entire Gross Revenues will be deposited as received.
- (2) Water System Operation and Maintenance Fund (the “**Operation and Maintenance Fund**”), which will be used to hold amounts expected to be used for the payment of the reasonable and necessary expenses of operating and maintaining the System, including salaries, wages, materials, supplies, and insurance, and for the purposes described in Section 19(c)(1) of this resolution.
- (3) Water System Special Redemption Fund (the “**Special Redemption Fund**”), which will be divided into the following three accounts: (i) the “**Interest and Principal Account**”, (ii) the “**Earnings Account**”, and (iii) the “**Reserve Account.**” Amounts held in the Interest and Principal Account and the Earnings Account will be used only to pay interest on and principal of the Bonds and Parity Bonds as provided in this resolution. Amounts held in the Reserve Account will be used to pay principal of or interest on the Bonds or any Parity Bonds at any time when amounts in the Interest and Principal Account and the Earnings Account are insufficient to make such payments.

- (4) Water System Surplus Fund (the “**Surplus Fund**”), amounts in which will be used for the purposes described in Section 19(c)(5) of this resolution.
- (5) 2015 Water System Construction Fund (the “**2015 Construction Fund**”), amounts in which will be used only to pay (i) the costs of issuing of the Bonds (including fees for any bond insurance policies securing the Bonds) and the costs of the Project, or (ii) interest on the Bonds at any time when there shall be insufficient money in the Special Redemption Fund for that purpose. Any balance remaining in the 2015 Construction Fund after the completion of the Project must be transferred to the Earnings Account.

(b) Limitation on the Use of Amounts in the Funds and Accounts.

Amounts held in the Funds and Accounts must be used only for the purposes described in this resolution.

(c) Requirement to Maintain the Special Redemption Fund as a Separate Fund.

The Special Redemption Fund must be maintained as a separate fund in the treasury of the Municipality. The other Funds and Accounts may be combined in a single investment or bank account.

(d) Investment of Amounts held in Funds and Accounts.

Amounts in the Funds and Accounts may be invested in any manner permitted by the laws of Wisconsin, subject to the following limitations:

- (i) The investments in each Fund or Account must be sold whenever necessary to provide funds for the purposes for which the Fund or Account was created.
- (ii) or its retention would cause any Bond to be an “arbitrage bond” (within the meaning of Section 148 of the Code or the Treasury Regulations promulgated thereunder).
- (iii) All investments held in the Funds and Accounts must be secured to the fullest extent required by the laws of Wisconsin.

(e) Required Transfers of Earnings on Certain Funds and Accounts.

All income from the investment of amounts in the Special Redemption Fund must be transferred to the Earnings Account. All income from the investment of amounts in the 2015 Construction Fund must be retained in the 2015 Construction Fund until used for the purposes

described above. All income from the investment of amounts in all other Funds and Accounts must be deposited in the Revenue Fund and regarded as revenues of the System.

(f) Rebate Matters.

To comply with the rebate requirements of Section 148(f) of the Code and the related Treasury Regulations:

- (i) The Municipality shall cause a determination to be made of the amount, if any, of rebate required to be paid to the United States Treasury with respect to the Bonds at least every five years after the date of the issuance of the Bonds and upon the retirement of the last Bond. The Municipality may engage Bond Counsel or another qualified rebate determination provider to prepare the determination, and the Municipality may pay reasonable compensation to the rebate determination provider for the performance of such services.
- (ii) The Municipality shall make required rebate payments to the United States Treasury with respect to the Bonds at such times and in such amounts and manner as are required by the Code and the related Treasury Regulations.
- (iii) The Municipality shall keep records of the rebate determinations prepared and any rebate payments made until three years after the April 15th following the retirement of the last Bond.

**Section 19. Application of Revenues.**

(a) Deposits to Revenue Fund and Transfers From Revenue Fund.

Until all Bonds and Parity Bonds, if any, have been retired, or until there is on deposit in the Special Redemption Fund an amount sufficient to provide for the payment of the principal of all Outstanding Bonds and Parity Bonds, if any, together with the interest thereon to maturity, the Gross Revenues must, to the extent permitted by law, be deposited as collected in the Revenue Fund and must be transferred from the Revenue Fund and deposited in the Operation and Maintenance Fund, the Special Redemption Fund, and the Surplus Fund in the following order:

- (1) A sum sufficient of the money in the Revenue Fund for the purposes of the Operation and Maintenance Fund must be deposited in the Operation and Maintenance Fund.
- (2) A sum sufficient of the money in the Revenue Fund for the purposes of the Special Redemption Fund must be deposited in the Special Redemption Fund.

- (3) The remainder of the money in the Revenue Fund must be deposited in the Surplus Fund.

Transfers from the Revenue Fund to the Operation and Maintenance Fund, the Special Redemption Fund, and the Surplus Fund must be made in the order indicated above, at such times as are necessary to carry out the purposes of the respective funds.

(b) Transfers to the Special Redemption Fund.

The Governing Body intends that the amount of money deposited in the Special Redemption Fund from all sources will be sufficient (i) to pay the interest on the Bonds and any Parity Bonds as the same becomes due, (ii) to retire the Bonds and any Parity Bonds at maturity, and (iii) to provide for any required monthly deposits to the Reserve Account.

(c) Transfers Among Certain Funds and Accounts; Uses of Amounts in Funds and Accounts.

Amounts deposited in the following Funds and Accounts must be held, used, or transferred as follows:

- (1) *Operation and Maintenance Fund.* Amounts deposited in the Operation and Maintenance Fund must be used for the purposes described in Section 18(a)(2) of this resolution, unless the balance in the Operation and Maintenance Fund exceeds the estimated operating and maintenance expenses of the System for the next succeeding sixty days, in which case the excess amount must (i) be transferred to the Special Redemption Fund to remedy any deficiency in the Special Redemption Fund, or (ii) if or to the extent that no such deficiency exists, then the remaining excess amount must be transferred to the Surplus Fund.
- (2) *Interest and Principal Account and Earnings Account.* Amounts deposited in the Special Redemption Fund must first be used to deposit each month into the Interest and Principal Account an amount equal to one-sixth (1/6) of the next installment of interest due on the Bonds and Parity Bonds then outstanding, plus an amount equal to one-twelfth (1/12) of the next installment of principal of the Bonds and Parity Bonds coming due, until the full amount of such installments is on deposit in the Interest and Principal Account. The deposits must be made first from the Earnings Account until it is depleted, and all moneys in the Earnings Account will be deemed to have been used first in payment of interest on the Bonds and Parity Bonds. Any funds remaining in the Earnings Account after each such transfer must first be transferred to the Interest and Principal Account until there is on hand in the Interest and Principal Account an amount equal to the full amount of principal of, and interest on, the Bonds and any

Parity Bonds then outstanding coming due during the 12 months following the date of such transfer and after that either (i) be used to retire Bonds or Parity Bonds in advance of maturity by redemption or by purchase of such bonds on the open market or an invitation and receipt of tenders of the lowest dollar price or prices obtainable, but not exceeding the lowest price at which such bonds could be redeemed on the next succeeding redemption date or (ii) be invested so as to restrict the yield thereon to avoid the Bonds or Parity Bonds being classified as “arbitrage bonds” within the meaning of Section 148 of the Code or any Treasury Regulations promulgated thereunder. Notwithstanding the foregoing, unless the Municipality is provided with an opinion of Bond Counsel that the action specified below will not adversely affect the exclusion of interest on the Bonds or the applicable issue of Parity Bonds from gross income for federal income tax purposes (i) moneys in the Earnings Account that are allocable to “proceeds” (within the meaning of Treas. Reg. § 1.148-1(b)) of the Bonds or any issue of Parity Bonds may only be deposited in the Interest and Principal Account if such moneys will be used to pay principal of, or interest on, the issue to which such proceeds are allocable, and (ii) no moneys that are allocable to proceeds of the Bonds or any issue of Parity Bonds may be used to pay interest on or principal of obligations that are not part of the issue to which the proceeds are allocable.

- (3) *Reserve Account.* The next available amounts in the Special Redemption Fund must be used to make monthly transfers to the Reserve Account until there is on hand in the Reserve Account an amount equal to the Minimum Reserve Amount. Amounts in the Reserve Account must be used whenever necessary to pay principal of or interest on the Bonds and Parity Bonds whenever the Interest and Principal Account and the Earnings Account are insufficient for that purpose. Any amounts in the Reserve Account in excess of the Minimum Reserve Amount must be transferred to the Earnings Account. For the purpose of computing the Minimum Reserve Amount, all investments in the Reserve Account shall be valued semiannually, on each interest payment date, at then current market value. In the event that amounts are withdrawn from the Reserve Account or amounts on deposit in the Reserve Account on any valuation date are less than the Minimum Reserve Amount, the Municipality, from revenues of the System, must restore any amounts so withdrawn or any shortfall so that 12 months following such withdrawal or shortfall the amount on deposit in the Reserve Account equals the Minimum Reserve Amount.

- (4) *Moral Obligation to Restore Reserve Account.* If, on July 2nd of any Fiscal Year, the amount on deposit in the Reserve Account is less than the Minimum Reserve Amount, then before October 1st of that Fiscal Year the Financial Officer must certify to the Governing Body the amount necessary to restore the Reserve Account to the Minimum Reserve Amount. Recognizing its moral obligation to do so, the Governing Body expresses its expectation and aspiration that, if presented with such a certification, it will, by December 31st of the Fiscal Year in which such a certification is presented to the Governing Body, make an appropriation of funds sufficient to restore the Reserve Account to the Minimum Reserve Amount. The Governing Body determines that the System and any appropriation of funds pursuant to this moral obligation pledge serves a public purpose by safeguarding the health and welfare of its citizens.
- (5) *Surplus Fund.* Amounts in the Surplus Fund must first be used whenever necessary to pay principal of or interest on the Bonds and Parity Bonds when the Special Redemption Fund is insufficient for that purpose, and thereafter:
- (i) to remedy any deficiency in any of the Funds or Accounts;
  - (ii) to pay local and school tax equivalents;
  - (iii) to pay the cost of additions, repairs, or improvements to the System;
  - (iv) to pay any other necessary disbursements or indebtedness with respect to the System; or
  - (v) if at the close of any Fiscal Year there are amounts in the Surplus Fund in excess of what is needed for the foregoing purposes, then such amounts may be used for any other purpose permitted by the Wisconsin Statutes.

All transfers and deposits within any Fund or Account or to any other Fund or Account required or permitted by this section shall be made at such times as are necessary to carry out the purposes of the applicable Fund or Account.

**Section 20. Agreements and Covenants Regarding the Operation of the System.**

The Municipality agrees and covenants with each and every registered owner of the Bonds and Parity Bonds as follows:

- (a) The reasonable cost and value of any service rendered to the Municipality by the System by furnishing utility services, including, but not limited to,



fire, police, safety and health protection, will, to the extent permitted by law, be charged against the Municipality and be paid by it monthly as the service accrues out of the current revenues of the Municipality collected or in process of collection, but not from Gross Revenues, and, if necessary, out of the tax levy of the Municipality made by it to raise money to meet its necessary current expenses.

- (b) The Municipality will faithfully and punctually perform all duties concerning the System required by the constitution and statutes of the State of Wisconsin, including the making and collecting of reasonable, lawful, and sufficient rates for services rendered by the System and the segregation and application of the revenues of the System as provided in this resolution.
- (c) The Municipality will not sell, lease, or in any manner dispose of all or any part of the System, or any additions or extensions that may be made to the System, until all Bonds and Parity Bonds have been paid in full, both principal and interest, or until provision has been made for the payment in full of all Bonds and Parity Bonds, both principal and interest, unless the property to be sold, leased, or otherwise disposed of has been found by the Governing Body to not be necessary or useful in the operation of the System. The proceeds received from any sale, lease, or disposal of any such property of the System must be paid into (i) the Earnings Account of the Special Redemption Fund, if the property sold was acquired or improved with proceeds of the Bonds or any Parity Bonds that are tax-exempt obligations, or (ii) the Revenue Fund, in all other cases.
- (d) The Municipality will: (i) operate and maintain the System in good condition; (ii) charge and collect such lawfully established rates and charges for the service rendered by the System so that the Gross Revenues of the System will be sufficient to make the payments into the Funds and Accounts created by this resolution and provide for Net Revenues at least equal to 1.10 times the highest combined annual interest and principal requirements on all Bonds and Parity Bonds then outstanding; and (iii) promptly take such actions as are necessary to adopt and enforce increased rates whenever such increase shall be necessary to fulfill any covenant of this resolution.
- (e) The Municipality will keep proper books and accounts relating to the System separate from all other records of the Municipality and will cause such books and accounts to be audited annually by a recognized independent firm of certified public accountants and will make available to the owners of any of the Bonds or Parity Bonds the latest balance sheet and the profit and loss statement of the System as certified by such accountants. The registered owners of any Bonds or Parity Bonds will have the right to inspect the System and the records, accounts, and data of the Municipality relating to the System at all reasonable times. Each audit

of the books and accounts of the System, in addition to whatever matters may be thought proper by the accountants to be included therein, must include the following: (i) a statement in detail of the revenues and expenditures of the System for the Fiscal Year; (ii) a statement of the Net Revenues as herein defined for the Fiscal Year; (iii) a balance sheet as of the end of the Fiscal Year; (iv) the accountants' comment regarding the manner in which the Municipality has carried out the requirements of this resolution and the accountants' recommendation for any changes or improvements in the operation of the System; (v) a list of the insurance policies in force at the end of the Fiscal Year setting out as to each policy the amount of the policy, the risks covered, the name of the insurer and the expiration date of the policy; and (vi) the number and types of connections at the end of the Fiscal Year.

- (f) The Municipality will carry, for the benefit of the registered owners of the Bonds and Parity Bonds, insurance of a kind and in such amounts as would usually be carried by private companies or other public bodies engaged in operating a similar utility system. All amounts received for losses under any of such insurance policies, except public liability, must be used in repairing the damage or in replacing the property destroyed, unless the Governing Body finds that it is not advisable to repair such damage or replace such property and that the operation of the System will not be impaired if such property is not repaired or such property is not replaced, in which case such amounts shall be deposited in the Earnings Account, provided that any amounts deposited in the Earnings Account must not reduce the amounts otherwise required to be paid into the Special Redemption Fund.
- (g) The Municipality will grant no franchise for the operation of another System (or any part thereof) within the geographic limits of the Municipality, unless the denial of such franchise would be in violation of any law.
- (h) The Municipality will by resolution of its Governing Body require all buildings in the Municipality used for human habitation and located adjacent to service from the System, or located in a block through which service from the System extends, to be connected with service from the System.
- (i) The Municipality will not enter into any contract with any person or persons which would cause any Bonds or Parity Bonds that were issued with the intent that interest on the issue would be excluded from gross income for federal income tax purposes to become "private activity bonds," within the meaning of Section 141(a) of the Code or any Treasury Regulations promulgated thereunder.

- (j) The Municipality will comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds or Parity Bonds that were issued with the intent that interest on the issue would be excluded from gross income for federal income tax purposes in order that interest thereon be (or continue to be) excluded from gross income for federal income tax purposes, including, but not limited to the rebate requirements set forth in the Code and the Treasury Regulations. The Municipality will comply with the provisions of the Tax Certificate delivered in connection with the issuance of the Bonds relating to these requirements.

**Section 21. Additional Bonds.**

The Municipality will issue no notes, bonds, or any other obligations of any kind or nature payable from or enjoying a lien on the Gross Revenues, the Special Redemption Fund, or properties of the System on a parity with or having a priority over the Bonds, except as provided in this Section:

- (a) Notes (including bond anticipation notes) or bonds may be issued having a priority over the Bonds and Parity Bonds if either (i) such notes or bonds are issued, wholly or in part, for the purpose of and will provide an amount sufficient, together with the earnings thereon and all other funds legally available therefor, to pay the entire principal of, and all interest on, the Bonds and Parity Bonds to their maturity or early redemption; or (ii) immediately upon the issuance of such notes or bonds, the Municipality has discharged all the Bonds and Parity Bonds in the manner provided in Section 23 of this resolution.
- (b) Additional notes (including bond anticipation notes) or bonds may be issued on a parity with the Bonds and Parity Bonds if such notes or bonds are issued for the purpose of refunding any of the Bonds or Parity Bonds which either (i) have matured, or (ii) will mature not later than 90 days after the date of delivery of such refunding notes or bonds, if there is insufficient amounts in the Special Redemption Fund to provide for the required payments.
- (c) Additional notes (including bond anticipation notes) or bonds may be issued on a parity with the Bonds and Parity Bonds if all of the following conditions have been satisfied:
  - (1) If (A) the Net Revenues of the System for the last completed Fiscal Year were at least 1.10 times the highest combined annual interest and principal requirements on all bonds and notes then outstanding payable from the Gross Revenues of the System (other than bonds being refunded) and the bonds or notes so proposed to be issued for any succeeding Bond Year in which there will be a principal maturity on such outstanding bonds or notes; *provided, however,* that if prior to the authorization of such additional bonds or notes

the Municipality has adopted and put into effect a revised schedule of rates, then the Net Revenues of the System for the last completed Fiscal Year which would, in the written opinion of an Independent Consultant employed for that purpose, have resulted from such rates had they been in effect for such period, may be used in lieu of the actual Net Revenues for the last completed Fiscal Year; (B) the need for such financing is evidenced by a certificate or certificates of an Independent Consultant with recognized expertise in utility ratemaking before the Public Service Commission of Wisconsin employed for that purpose, giving a detailed description of the proposed projects to be financed, an estimate of the cost of the proposed projects including proposed capitalized interest, if any, and an estimate of the time of completion of the proposed projects, and showing the feasibility of such financing with reference to projected Net Revenues based on rates and charges projected to be in effect upon completion of such projects; provided, that such feasibility shall not be deemed shown unless the projected Net Revenues for each of the two full Fiscal Years next succeeding the estimated date of completion of such projects shall be equal to at least equal to 1.10 times the highest combined annual interest and principal requirements on all bonds and notes then outstanding payable from the Gross Revenues of the System (other than bonds being refunded) and the bonds or notes so proposed to be issued for any succeeding Fiscal Year in which there shall be a principal maturity on such outstanding bonds or notes; or (C) the proceeds of the additional bonds or notes will be used to refund Bonds or Parity Bonds and, after giving effect to the refunding, the payments due in each year of the interest and principal on the Bonds and Parity Bonds then outstanding (not including the obligations being refunded), and the additional bonds or notes proposed to be issued will be less than the payments due in each year of the principal of, and interest on, the Bonds and Parity Bonds then outstanding (in other words, the refunding will produce debt service savings in each year). For purposes of this subsection, except as otherwise provided, Net Revenues for any Fiscal Year will be either (x) the Net Revenues shown in the audit of the System's books and accounts for the Fiscal Year required by Section 20(e) of this resolution, if such an audit is available, or (y) if such an audit is not available, then the estimated, unaudited Net Revenues of the System for the last completed Fiscal Year.

- (2) The payments required to be made into the Funds and Accounts created pursuant to Section 18 of this resolution must be current.
- (3) There must be on hand in the Reserve Account immediately upon the issuance of such additional bonds or notes an amount not less than the Minimum Reserve Amount.

- (4) The additional bonds or notes must be payable as to principal on January 1 of each year and as to interest on January 1 and July 1 of each year.
- (5) The proceeds of the additional bonds or notes must be used only to refund Bonds or Parity Bonds, or for acquiring or constructing additions, extensions, improvements, renewals, or replacements to the System.

In the case of bond anticipation notes, the provisions of the Act shall govern with respect to all matters relating to the lien and sources of payment of such notes.

**Section 22. Resolution a Contract; Remedies of Bondholders.**

The provisions of this resolution constitute a contract between the Municipality and the registered owners of the Bonds. After the issuance of the Bonds no change or alteration in the provisions of this resolution may be made, except as provided in Section 24 of this resolution and in the definition of “Fiscal Year” in Section 1 of this resolution, until all Bonds have been paid in full as to both principal and interest.

The registered owners of any of the Bonds will have the right, in addition to all other rights, by mandamus or other suit or action in any court of competent jurisdiction, to enforce their rights against the Municipality, the Governing Body, and any and all officers and agents thereof, including, but not limited to, the right to require the Municipality, the Governing Body, and any other authorized body to fix and collect rates and charges fully adequate to carry out all provisions and agreements contained in this resolution, and the right to have a receiver appointed for the System in the event of a default in the payment of principal of or interest on the Bonds.

**Section 23. Discharge and Satisfaction of Bonds and Covenants.**

The agreements, covenants, liens, and pledges entered into, created, or imposed pursuant to this resolution may be fully discharged and satisfied with respect to any or all of the Bonds in any one or more of the following ways:

- (a) By paying the Bonds when they become due and payable, or upon their prior redemption, in the manner provided in this resolution;
- (b) By depositing with the appropriate fiscal agent(s) for the Bonds funds in the amount necessary, without consideration of any reinvestment thereof, to pay the principal of, and interest on, the Bonds until their maturity or earlier redemption; provided that if the Bonds are to be redeemed prior to their stated maturities, then (i) the Bonds must have been irrevocably called for redemption by the Governing Body, and (ii) provision must have been made for the required notice of the redemption in the manner provided in this resolution; or

- (c) By depositing with a trustee or an escrow agent, in trust for such purpose, on or before the date of maturity or redemption, money and/or direct obligations of, or obligations the principal of, and interest on, which are fully guaranteed by, the United States of America, in such amount as, together with the income or increment to accrue thereon without consideration of any reinvestment thereof, will be fully sufficient to pay or redeem (when redeemable) the Bonds at or before their respective maturity dates; provided, that if a Bond is to be redeemed prior to its stated maturity date, then (i) the Bond must have been irrevocably called for redemption by the Governing Body, and (ii) provision must have been made for the required notice of the redemption in the manner provided in this resolution; *provided, further*, that any such deposit can only be made if the deposit will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for federal income tax purposes.

Upon a payment or a deposit of money or investments in the amount and manner required by this section, all liability of the Municipality with respect to the relevant Bonds will cease, determine, and be completely discharged, and the registered owners of any Bonds that are not then retired will be entitled only to payment out of the money and investments deposited as required by this section.

#### **Section 24. Amendment of Resolution.**

*Amendment Without the Consent of the Owners.* This resolution may be amended from time to time without the consent of the registered owners of the Bonds to make any change that does not adversely affect the registered owners of the Bonds, including, without limitation, to cure any ambiguities, inconsistencies, or typographical errors that may be contained in this resolution.

*Amendment With the Consent of the Owners.* This resolution may also be amended from time to time with the written consent of the registered owners of not less than two-thirds in outstanding principal amount of the Bonds (not including any Bonds that are held or owned by or for the account of the Municipality); however, this resolution may be amended only with the unanimous written consent of:

- (a) The registered owners of the Bonds (not including any Bonds that are held or owned by or for the account of the Municipality):
  - (i) To make any change in the stated maturity date of or interest rate on any Bond; modify the terms of payment of principal of, or interest on, any Bond; or impose any conditions with respect to payment of principal of or interest on any Bond;
  - (ii) To materially affect the rights of the owners of less than all Bonds then outstanding; or

- (iii) To reduce the required outstanding principal amount of the Bonds for which consent must be given to effect any future amendments to this resolution; and
- (b) The registered owners of any series of Parity Bonds (not including any Parity Bonds of the series that are held or owned by or for the account of the Municipality):
  - (i) To make any change in the stated maturity date of or interest rate on any Parity Bond of the series; modify the terms of payment of principal of or interest on any Parity Bond of the series; or impose any conditions with respect to payment of principal of, or interest on, any Parity Bond of the series;
  - (ii) To materially affect the rights of the owners of less than all Parity Bonds of the series then outstanding; or
  - (iii) To reduce the required outstanding principal amount of Parity Bonds of the series for which consent must be given to effect any future amendments to this resolution.

*Notice.* If the Municipality proposes to amend this resolution under any provision of this section, then the Municipality must cause notice of the proposed amendment (the “**Amendment Notice**”) and, if consent is required, a form of consent to the proposed amendment (the “**Consent**”) to be (i) sent by certified mail to all registered owners of the Bonds and, if appropriate, any Parity Bonds, and (ii) filed with the Bond Purchaser. The Amendment Notice must briefly describe the nature of the proposed amendment and must state that a copy of the proposed amendment is on file for public inspection in the office of the Recording Officer. The Consent must refer to the proposed amendment, specifically evidence consent to and approval of the proposed amendment, and be dated by the owner of the Bonds and, if appropriate, the Parity Bonds upon execution of the Consent. The Amendment Notice and Consent may be one instrument.

If, at any time prior to one year after the date of the mailing of the Amendment Notice concerning a proposed amendment for which consent is required, the Recording Officer receives Consents executed by the registered owners of the Bonds and Parity Bonds owning not less than the required outstanding principal amount to approve the amendment, then the Governing Body may adopt a resolution effecting the proposed amendment, and upon the adoption of the resolution effecting the proposed amendment, the proposed amendment will become effective and binding upon the registered owners of all of the Bonds and Parity Bonds issued after the Bonds.

Any Consent given by the registered owner of a Bond or Parity Bond pursuant to the provisions of this section will be irrevocable for a period of six months from the date of the Consent and will be conclusive and binding upon all future registered owners of the same Bond or Parity Bonds during the six-month period. A Consent may be revoked at any time after the six-month period by the registered owner who gave the Consent or by a successor in title by

filing notice of such revocation with the Recording Officer; *provided* that a revocation will not be effective if the Recording Officer has already received Consents from registered owners of the Bonds and Parity Bonds owning not less than the required outstanding principal amount to approve the amendment, evidencing their consent to, and approval of, the proposed amendment that was the subject of the Consent.

**Section 25. Sale of Bonds.**

The Municipality awards the sale of the Bonds to the Bond Purchaser at the Purchase Price, plus any accrued interest from the Original Issue Date to the date of delivery of the Bonds. The Municipality approves and accepts the purchase agreement signed and presented by the Bond Purchaser to evidence the purchase of the Bonds (the “**Bond Purchase Agreement**”). The Municipal Officers are directed (a) to sign the Bond Purchase Agreement in the Municipality’s name and (b) to take any additional actions needed to complete the sale of the Bonds, including arranging for a specific date, location, and time of closing of the sale.

The Municipal Officers are directed to sign the Bonds and to deliver the Bonds to the Bond Purchaser through the facilities of DTC in accordance with the Bond Purchase Agreement and this resolution. The Bonds may be delivered to the Bond Purchaser upon payment by the Bond Purchaser of the Purchase Price, plus any accrued interest, as required by this resolution.

Unless waived by the Bond Purchaser, the delivery of the Bonds is conditioned upon the Municipality furnishing the following items to the Bond Purchaser:

- (i) The Bonds, together with the written, unqualified approving opinion of Bond Counsel, evidencing the legality of the Bonds and that interest on the Bonds will be excluded from gross income for federal income tax purposes.
- (ii) A transcript of the proceedings relating to the issuance of the Bonds.
- (iii) A certificate showing that no litigation has been threatened or is pending that would affect the legality of the Bonds or the right of the Municipality to issue them at the time of their delivery.

**Section 26. Refunding of Refunded Bonds; Escrow Account.**

To provide for the payment of the interest on the Refunded Bonds when due on and prior to their respective Redemption Date, and to effect the redemption of the Refunded Bonds on their respective Redemption Date, the Municipal Officers are directed to enter into the Escrow Agreement on the Municipality’s behalf and to transfer to the Escrow Account the amounts necessary for this purpose. The amounts deposited in the Escrow Account must be invested and disbursed in the manner described in the Escrow Agreement.

It is necessary to purchase investment securities to be held in the Escrow Account. The Municipality is directed to purchase, or cause to be purchased, appropriate securities to be held in the Escrow Account in the Municipality’s name. The securities that are purchased must



be deposited in the Escrow Account and held pursuant to the terms of the Escrow Agreement and this resolution.

**Section 27. Redemption of Refunded Bonds.**

Subject to the delivery of the Bonds and the receipt of the Purchase Price for the Bonds from the Bond Purchaser, the Municipality irrevocably directs that the principal amount of the Refunded Bonds be redeemed and paid in full in advance of their stated maturity dates on the applicable Redemption Date. The appropriate officers of the Municipality are directed to instruct the fiscal agent for the Refunded Bonds to take all actions required to call the Refunded Bonds for redemption on the applicable Redemption Date, including giving notice in the manner that the governing documents for the Refunded Bonds require; *provided, however*, that no such action may be taken to redeem the Refunded Bonds until after the Bonds are delivered and paid for.

**Section 28. Disposition of Bond Proceeds; Transfers.**

- (a) The proceeds from the sale of the Bonds shall be disbursed as follows:
  - (i) Any accrued interest shall be deposited into the Interest and Principal Account of the Special Redemption Fund.
  - (ii) \$5,620,156.96 of the sale proceeds of the Bonds shall be deposited in the 2015 Construction Fund and used as described in Section 18(a)(5).
  - (iii) The remaining proceeds from the sale of the Bonds shall be deposited in trust with the Escrow Agent, pursuant to the Escrow Agreement, for the purpose of the paying the Refunded Bonds and paying the costs of issuing the Bonds.
- (b) Amounts in the existing Funds and Accounts must be transferred on the Original Issue Date as follows (or in such other amounts as may be specified by the Municipality's Director of Finance):
  - (i) The sum of \$325,000.00 currently held in or credited to the Principal and Interest Account to provide for the upcoming debt service payments due on the Refunded Bonds must be transferred to the Escrow Account.
  - (ii) The sum of \$179,389.50 currently held in the Reserve Account, which is allocated to the Refunded Bonds, must be transferred to the Escrow Account.

**Section 29. Official Statement.**

The Municipality approves and ratifies the preliminary offering document prepared and distributed in connection with the sale of the Bonds, and the Municipality

authorizes, directs, and approves the final version of such document (the “**Official Statement**”) to be prepared and distributed prior to the issuance of the Bonds; *provided, however*, that the Official Statement shall be substantially in the form submitted to this meeting, with such modifications as the Municipal Officers approve. The Municipal Officers are directed to deliver copies of the Official Statement to the Bond Purchaser and, if the Bond Purchaser requests, execute one or more copies on behalf of the Municipality. Execution and delivery of the Official Statement will conclusively evidence the approval of the Municipal Officers.

**Section 30. Publication of Notice.**

The Recording Officer is directed to publish notice that the Municipality has agreed to sell the Bonds. The notice shall be published promptly after the adoption of this resolution in the Municipality’s official newspaper as a class 1 notice under Chapter 985 of the Wisconsin Statutes. The notice shall be in substantially the form shown in Exhibit B hereto. The Recording Officer shall obtain proof, in affidavit form, of the publication, and shall compare the notice as published with the attached form to make sure that no mistake was made in publication.

**Section 31. Authorization of Officers.**

The appropriate officers of the Municipality are directed to prepare and furnish the following items to the Bond Purchaser and the attorneys approving the legality of the Bonds:

- (i) Certified copies of proceedings and records of the Municipality relating to the Bonds and to the financial condition and affairs of the Municipality.
- (ii) Other affidavits, certificates, and information as may be required to show the facts about the legality of the Bonds as such facts appear on the books and records under the officer’s custody or control or as are otherwise known to the officer.

All certified copies, affidavits, certificates, and information furnished for such purpose will be representations of the Municipality as to the facts they present.

**Section 32. Tax Law Covenants.**

The Municipality covenants that it will comply with all requirements of the Code, and the Treasury Regulations promulgated thereunder, that shall be satisfied so that interest on the Bonds will be excluded from gross income for federal income tax purposes.

**Section 33. Further Authorization.**

The Municipality authorizes its officers, attorneys, and other agents or employees to do all acts required of them to carry out the purposes of this resolution.

**Section 34. Conflict with Prior Acts.**

In case any part of a prior action of the Governing Body conflicts with this resolution, that part of the prior action is hereby rescinded; except that this section shall not be interpreted as rescinding any part of the Prior Resolutions.

**Section 35. Severability of Invalid Provisions.**

If a court holds any provision of this resolution to be illegal or invalid, then the illegality or invalidity shall not affect any other provision of this resolution.

**Section 36. Effective Date.**

This resolution takes effect upon its adoption and approval in the manner provided by law.

\* \* \* \* \*

Adopted: October 7, 2015

Approved: October \_\_\_\_, 2015

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

**EXHIBIT A**  
**FORM OF BOND**

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

STATE OF WISCONSIN  
CITY OF APPLETON

No. R-\_\_\_\_ Registered  
\$ \_\_\_\_\_

WATER SYSTEM REVENUE REFUNDING BOND, SERIES 2015

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Issue Date</u>	<u>CUSIP</u>
_____%	January 1, 20__	October 28, 2015	038141 ____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

THE CITY OF APPLETON, WISCONSIN (herein called the “**Municipality**”) hereby acknowledges itself to owe and for value received promises to pay the Principal Amount to the Registered Owner, only from the income and revenues hereinafter specified on the Maturity Date, and interest on the Principal Amount from the Original Issue Date at the annual rate of the Interest Rate. Interest is payable on each January 1 and July 1, beginning on January 1, 2016, until the Principal Amount has been paid. Interest is computed on the basis of a 360 day year of twelve 30 day months.

This Bond is one of a duly authorized issue of revenue bonds (the “**Bonds**”) of the Municipality of an aggregate principal amount of \$22,735,000, all of like tenor, except as to denomination, interest rate, maturity date, and redemption provisions, issued by the Municipality pursuant to Article XI, Section 3 of the Wisconsin Constitution and Section 66.0621 of the Wisconsin Statutes, and acts supplementary thereto.

This Bond, together with interest hereon, is payable in lawful money of the United States of America, together with the Municipality’s outstanding (i) \$58,510,000 Water System Revenue Refunding Bonds, Series 2007A, dated February 6, 2007, (ii) \$12,140,000

Water System Revenue Bonds, Series 2007C, dated March 1, 2007, (iii) \$15,215,000 Water System Revenue Bonds, Series 2008, dated December 17, 2008, (iv) \$3,170,000 Water System Revenue Bonds, Series 2011, dated August 24, 2011, (v) \$2,510,000 Water System Revenue Bonds, Series 2012, dated August 8, 2012, and \$3,850,000 Water System Revenue Bonds, Series 2014, dated September 10, 2014, (vi) \$7,180,000 Water System Revenue Bonds, Series 2013, dated August 7, 2013, and (vii) \$3,850,000 Water System Revenue Bonds, Series 2014, dated September 10, 2014, (collectively, the “**Outstanding Bonds**”), only from the income and revenues to be derived from the operation of the Municipality’s water utility (the “**System**”) and set aside in the “Water System Special Redemption Fund,” which was created by a resolution adopted by the governing body of the Municipality on January 17, 2007 (the “**2007A Resolution**”) and affirmed and continued by subsequent resolutions, including a resolution adopted by the governing body of the Municipality on October 7, 2015 (the “**2015 Resolution**”). The 2015 Resolution is entitled “A Resolution Authorizing and Providing for the Sale and Issuance of \$22,735,000 Water System Revenue Refunding Bonds, Series 2015, and All Related Details.” Reference is hereby made to the 2015 Resolution for a more complete statement of the revenues from which and conditions under which this Bond is payable, the provisions pursuant to which this Bond has been issued, and the conditions under which bonds may hereafter be issued on a parity with this Bond. The Bonds rank on a parity with the Outstanding Bonds. This Bond does not constitute an indebtedness of the Municipality within the meaning of any constitutional or statutory limitation or provision.

This Bond is a valid claim of the registered owner hereof only against the Water System Special Redemption Fund and the revenues of the System pledged to the Water System Special Redemption Fund. Revenues of the System have been pledged to the Water System Special Redemption Fund and will be used for no other purpose than to pay the principal of, and interest on, the Outstanding Bonds and the Bonds as the same becomes due.

On the date of their initial delivery, the Bonds will be maintained in a system in which no physical distribution of certificates representing ownership of the Bonds is made to the owners of the Bonds but instead all outstanding Bonds are registered in the name of a securities depository appointed by the Municipality (a “**Depository**”), or in the name of the Depository’s nominee, and the Depository and its participants record beneficial ownership and effect transfers of the Bonds electronically (a “**Book-Entry System**”). So long as the Bonds are maintained in a Book-Entry System, the principal of, and interest on, this Bond will be paid by wire transfer to the Depository or its nominee in accordance with the Depository’s rules that are then in effect by the Director of Finance of the Municipality or any successor fiscal agent appointed by the Municipality (hereinafter, the “**Fiscal Agent**”), which will act as authentication agent, paying agent, and registrar for the Bonds.

If at any time the Bonds are not being maintained in a Book-Entry System, then (i) the principal of this Bond will be paid by the Fiscal Agent upon its presentation and surrender on or after its maturity date or prior redemption date at the designated office of the Fiscal Agent, and (ii) the interest on this Bond will be paid by the Fiscal Agent on each interest payment date by wire or other electronic money transfer, or by check of the Fiscal Agent sent by first class mail, to the person in whose name this Bond is registered in the register (the “**Register**”) maintained by the Fiscal Agent at the end of the day on the 15th day (whether or not a business day) of the calendar month just before each regularly scheduled interest payment date (the

“**Record Date**”). The Municipality and the Fiscal Agent may treat the entity or person in whose name this Bond is registered on the Register as the absolute owner of this Bond for all purposes.

The Bonds maturing on or after January 1, 2024 are subject to redemption prior to their stated maturity dates, at the Municipality’s option, in whole or in part, as selected by the Municipality, on January 1, 2023 and on any date thereafter. The redemption price will be 100% of the principal amount redeemed plus accrued interest to the redemption date, and no premium will be paid. If payment of a Bond called for redemption has been made or provided for, then interest on the Bond stops accruing on the stated redemption date. If less than all outstanding Bonds are redeemed, then the Bonds will be redeemed in \$5,000 multiples as described below.

So long as the Bonds are being maintained in a Book-Entry System, the following provisions apply:

*Transfers.* The Bonds are transferable, only upon the Register and only if the Depository ceases to act as securities depository for the Bonds and the Municipality appoints a successor securities depository. If that happens, then upon the surrender of the Bonds to the Fiscal Agent, the Municipality will issue new fully registered Bonds in the same aggregate principal amounts to the successor securities depository and the Bonds will be recorded as transferred to the successor securities depository in the Register.

The Fiscal Agent will not be required to make any transfer of the Bonds (i) during the 15 calendar days before the date of the sending of notice of any proposed redemption of the Bonds, or (ii) with respect to any particular Bond, after such Bond has been called for redemption.

*Partial Redemption.* If less than all the principal amount of a specific maturity is to be redeemed, then the Depository and its direct and indirect participants will select the beneficial owners of the Bonds to be redeemed. If a Bond has been called for redemption but less than all the principal amount of a specific maturity is redeemed, then on the redemption date and upon surrender to the Fiscal Agent of the Bond, the Municipality will issue one or more new Bonds in the principal amount outstanding after the redemption.

*Notice of Redemption.* Notice of the redemption of any of the Bonds will be sent to the Depository, in the manner required by the Depository, not less than 30, and not more than 60, days prior to the proposed redemption date. A notice of redemption may be revoked by sending notice to the Depository, in the manner required by the Depository, not less than 15 days prior to the proposed redemption date.

If at any time the Bonds are not being maintained in a Book-Entry System, then the following provisions apply:

*Transfers.* Each Bond is transferable, only upon the Register, for a like aggregate principal amount of the same maturity and interest rate in denominations of \$5,000 or any multiple thereof. A transfer may be requested by the registered

owner in person or by a person with a written power of attorney. The Bond shall be surrendered to the Fiscal Agent, together with a written instrument of transfer satisfactory to the Fiscal Agent signed by the registered owner or by the person with the written power of attorney. The Municipality will issue one or more new fully registered Bonds, in the same aggregate principal amount to the transferee or transferees, as applicable, in exchange for the surrendered Bonds and upon the payment of a charge sufficient to reimburse the Municipality or the Fiscal Agent for any tax, fee, or other governmental charge required to be paid with respect to such registration.

The Fiscal Agent will not be required to make any transfer of the Bonds (i) during the 15 calendar days before the date of the sending of notice of any proposed redemption of the Bonds, or (ii) with respect to any particular Bond, after such Bond has been called for redemption.

*Partial Redemption.* If less than all the principal amount of a specific maturity is to be redeemed, then the Municipality or the Fiscal Agent will randomly select the Bonds to be redeemed. If a Bond has been called for redemption but less than all the principal amount of a specific maturity is redeemed, then on the redemption date and upon surrender to the Fiscal Agent of the Bond, the Municipality will issue one or more new Bonds in the principal amount outstanding after the redemption.

*Notice of Redemption.* Notice of the redemption of any of the Bonds shall be sent by first class mail not less than 30, and not more than 60, days before the redemption date to the registered owners of any Bonds to be redeemed, at the respective addresses set forth in the Register. A notice of redemption may be revoked by sending a notice by first class mail not less than 15 days prior to the proposed redemption date to the registered owners of the Bonds which have been called for redemption.

The Municipality certifies, recites, and declares that all acts, conditions, and procedures required by law to exist, to have happened, and to be performed, leading up to and in the issuing of this Bond and of the issue of which it is a part, do exist, have happened, and have been performed in regular and due form, time, and manner as required by law; and that a sufficient amount of the income and revenue to be received by the Municipality from the operation of the System has been pledged to and will be set aside into a special fund for the payment of the principal of, and interest on, this Bond.

IN WITNESS WHEREOF, the Municipality, by its governing body, has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signatures of its Mayor and Clerk, and to be sealed with its corporate seal (or a facsimile thereof), all as of October 28, 2015.

CITY OF APPLETON, WISCONSIN

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

[SEAL]

And: \_\_\_\_\_  
Clerk

Certificate of Authentication:

Dated: October \_\_\_\_, 2015

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

\_\_\_\_\_  
Director of Finance, as Fiscal Agent



ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

PLEASE INSERT SOCIAL SECURITY OR  
OTHER IDENTIFYING NUMBER OF ASSIGNEE

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(Please Print or Type Name and Address of Assignee)

the within-mentioned Bond and all rights thereunder and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney-in-fact, to transfer the same on the books of the registry in the office of the Fiscal Agent, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed

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NOTICE: Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Fiscal Agent, which requirements include membership or participation in the Securities Transfer Association Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Fiscal Agent in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

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NOTE: The signature to this assignment must correspond with the name as written on the face of the within Bond in every particular, without alteration or enlargement or change whatsoever. When assignment is made by a guardian, trustee, executor or administrator, an officer of a corporation, or anyone in a representative capacity, proof of such person's authority to act must accompany this Bond.

**EXHIBIT B**

NOTICE TO THE ELECTORS OF THE  
CITY OF APPLETON, WISCONSIN  
RELATING TO  
WATER SYSTEM REVENUE BOND SALE

On October 7, 2015, pursuant to Section 66.0621 of the Wisconsin Statutes, a resolution was offered, read, approved and adopted whereby the City of Appleton, Wisconsin authorized the borrowing of money and entered into a contract to sell water system revenue refunding bonds in the principal amount of \$22,735,000. It is anticipated that the closing of this bond financing will be held on or about October 28, 2015. A copy of all proceedings had to date with respect to the authorization and sale of said bonds is on file and may be examined in the office of the City Clerk at 100 North Appleton Street, Appleton, Wisconsin between the hours of 9:00 a.m. and 4:30 p.m. on weekdays.

This notice is given pursuant to Section 893.77 of the Wisconsin Statutes, which provides that an action or proceeding to contest the validity of such financing, for other than constitutional reasons, must be commenced within 30 days after the date of publication of this notice.

Publication Date: October \_\_\_\_, 2015

/s/ \_\_\_\_\_  
Acting City Clerk

## CERTIFICATIONS BY CLERK

I, \_\_\_\_\_, certify that I am the duly qualified acting Clerk of the City of Appleton, Wisconsin (the “**Municipality**”), and as such I have in my possession, or have access to, the complete corporate records of the Municipality and of its Common Council (the “**Governing Body**”), and that attached to this certificate is a true, correct, and complete copy of the resolution (the “**Resolution**”) entitled:

### **A Resolution Authorizing and Providing for the Sale and Issuance of \$22,735,000 Water System Revenue Refunding Bonds, Series 2015, and All Related Details**

I further certify as follows:

1. **Meeting Date.** On October 7, 2015, a meeting of the Governing Body was held beginning at \_\_\_\_ p.m.
2. **Posting.** On October \_\_\_\_, 2015 (and not less than 24 hours prior to the meeting), I posted, or caused to be posted, at the Municipality’s offices in Appleton, Wisconsin a notice setting forth the date, location, time, and subject matter of said meeting. The notice specifically referred to the Resolution.
3. **Notification of Media.** On October \_\_\_\_, 2015 (and not less than 24 hours prior to the meeting), I communicated or caused to be communicated, the date, location, time, and subject matter of said meeting to those news media who have filed a written request for such notice and to the official newspaper of the Municipality. The communication specifically referred to the Resolution.
4. **Open Meeting Law Compliance.** The meeting was a regular meeting of the Governing Body that was held in open session in compliance with Subchapter V of Chapter 19 of the Wisconsin Statutes and any other applicable local rules and state statutes.
5. **Members Present.** The meeting was duly called to order by the Mayor (the “**Presiding Officer**”), who chaired the meeting. Upon roll call, I noted and recorded that there were \_\_\_\_ members of the Governing Body present at the meeting, such number being a quorum of the Governing Body.
6. **Consideration of, and Roll Call Vote on, Resolution.** Various matters and business were taken up during the course of the meeting without intervention of any closed session. One of the matters taken up was the Resolution. A proper quorum of the Governing Body was present for the consideration of the Resolution, and each member of the Governing Body had received a copy of the Resolution. All rules of the Governing Body that interfered with the consideration of the Resolution, if any, were suspended by a two-thirds vote of the Governing Body. The Resolution was then introduced, moved, and seconded, and after due consideration, upon roll call, \_\_\_\_ of the Governing Body members voted Aye, \_\_\_\_ voted Nay, and \_\_\_\_ Abstained.

7. **Adoption of Resolution.** The Resolution was supported by the affirmative vote of a majority of a quorum of the members of the Governing Body in attendance. The Presiding Officer then declared that the Resolution was adopted, and I recorded the adoption of the Resolution.

8. **Approval of Presiding Officer.** The Resolution was approved by the Presiding Officer on October \_\_\_\_, 2015, and I have recorded the approval. The approval is evidenced by the signature of the Presiding Officer on the copy of the Resolution to which this certificate is attached.

9. **Publication of Notice.** I have caused the Notice to Electors, the in the form of Exhibit B to the Resolution, to be published in the place specified in the Resolution.

IN WITNESS WHEREOF, I have signed my name and affixed the seal of the Municipality, if any, on this certificate on October \_\_\_\_, 2015.

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Acting Clerk

[SEAL]