

ORDINANCE NO. 2012-7

AN ORDINANCE OF THE CITY OF ST. ANTHONY, FREMONT COUNTY, IDAHO, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A SEWER REVENUE REFUNDING BOND, SERIES 2012, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$4,107,463, FOR THE PURPOSE OF REFUNDING OF THE CITY'S OUTSTANDING SEWER REVENUE BONDS; PROVIDING FOR THE COLLECTION AND APPLICATION OF SEWER REVENUES TO PAY THE PRINCIPAL OF AND INTEREST ON THE BOND; ESTABLISHING FUNDS; PROVIDING FOR THE FORM, EXECUTION, REGISTRATION, MATURITY, AND PAYMENT OF THE BOND; PROVIDING COVENANTS RELATING TO THE BOND AND THE TAX-EXEMPT STATUS OF THE INTEREST ON THE BOND; APPROVING A FORM OF LOAN AGREEMENT BETWEEN THE CITY AND THE IDAHO BOND BANK AUTHORITY; PROVIDING FOR RELATED MATTERS; APPROVING A SUMMARY OF THIS ORDINANCE FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of St. Anthony, Fremont County, Idaho (the "City"), is a municipal corporation duly organized and operating under and pursuant to the laws of the State of Idaho; and

WHEREAS, the City owns and operates a sanitary sewer collection and treatment system (the "System") for the benefit of the residents of the City; and

WHEREAS, the City has heretofore issued the following sewer revenue bonds, payable from the net revenues of its sanitary sewer system: Sewer Revenue Bonds, Series 2006A, issued on March 6, 2006, in the original principal amount of \$3,000,000 (the "Series 2006A Bonds"); and Sewer Revenue Bonds, Series 2006B, issued on November 14, 2006, in the original principal amount of \$2,000,000 (the "Series 2006B Bonds"); and

WHEREAS, portions of the principal amount of each of the foregoing sewer revenue bonds remains outstanding; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the City and its utility ratepayers to refund the Series 2006A Bonds and the Series 2006B Bonds (collectively, the "Refunded Bonds") and to issue refunding bonds for that purpose; and

WHEREAS, the ordinances pursuant to which the Refunded Bonds were issued reserve the right of the City to redeem the Refunded Bonds, in full, prior to maturity, upon notice as provided in said ordinances; and

WHEREAS, the City is authorized by the Constitution and laws of Idaho to issue refunding bonds to refund its outstanding bonds whenever the Mayor and Council determine that a savings or other beneficial public objective can be achieved thereby, without an approving vote of the electors of the City, and to sell such refunding bonds at private sale; and

WHEREAS, the Idaho Bond Bank Authority (the “Authority”) is an independent body corporate and politic created and operating pursuant to Title 67, Chapter 87, Idaho Code, as amended (the “Act”), and the Authority is authorized by the Act to issue bonds for the purpose of purchasing municipal bonds, including bonds evidencing loans undertaken by municipalities for purposes authorized by law; and

WHEREAS, Section 67-8722, Idaho Code, authorizes the sale by the City of its bonds to the Authority at private sale and further authorizes the City to enter into a loan agreement for such purpose, and the Mayor and Council have determined to issue the refunding obligations of the City in the form of a single, amortized sewer revenue refunding bond in an aggregate principal amount not to exceed \$4,107,463 to the Authority; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ST. ANTHONY, Fremont County, Idaho, as follows:

Section 1: DEFINITIONS

As used in this Ordinance, the following words shall have the following meanings:

Act means, collectively, Title 50, Chapter 10, Title 57, Chapters 2, 5, and 9, and Title 67, Chapter 87, Idaho Code.

Additional Bonds means any bonds issued pursuant to Section 9 of this Ordinance.

Annual Debt Service means the amount required in a given Fiscal Year of the City for the payment of the principal of and interest on the Bond.

Average Annual Debt Service means the average annual amount required over the term of the Bond from the time of calculation for the payment of the principal of and interest on the Bond.

Authority means the Idaho Bond Bank Authority, an independent body corporate and politic created and operating pursuant to Title 67, Chapter 87, Idaho Code.

Bond means the City of St. Anthony Sewer Revenue Refunding Bond, Series 2012, herein authorized to be issued, sold, and delivered.

Bond Counsel means Moore Smith Buxton & Turcke, Chartered, Boise, Idaho, or another attorney at law or a firm of attorneys of nationally recognized standing in matters pertaining to the tax-exempt status of interest on obligations issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States.

Bond Fund means the Bond Fund established by Section 8 of this Ordinance.

Bond Register means the registration books on which are maintained the names and addresses of the Owner or nominees of the Owner of the Bond.

Bond Registrar means the bond registrar, transfer agent, and authenticating and paying agent appointed and designated in Section 6 of this Ordinance, and any successor Bond Registrar.

City means the City of St. Anthony, Fremont County, Idaho.

City Clerk means the Clerk of the City, or other officer of the City who is the custodian of the seal of the City and of the records of the proceedings of the City, or his/her successor in functions, if any.

Code means the Internal Revenue Code of 1986, as amended.

Cost of Issuance Fund means the fund created by Section 8(A) of this Bond Ordinance for the payment of the costs of issuance of the Bond.

Council means the City Council of the City.

Estimated Net Revenues means, for any current or prior Fiscal Year of the City, the estimated Revenues of the System for such year less the estimated Operation and Maintenance Expenses for such year, based upon estimates prepared by the City Engineer or an independent engineer, or an independent certified public accountant. In computing Estimated Net Revenues, Revenues of the System may be adjusted as necessary to reflect any changed schedule of rates and charges.

Fiscal Year means the annual fiscal year of the City, currently commencing on October 1 of each year and ending on September 30 of the following year.

Interest Payment Date(s) means the payment date(s) on the Bond set forth in the Loan Agreement.

Loan Agreement means the loan agreement between the Authority and the City, substantially in the form which is annexed hereto as Exhibit "C," and referred to and authorized in Section 13 of the Ordinance.

Maximum Annual Debt Service means an amount equal to the greatest Annual Debt Service on the Bond for the then-current or any future Fiscal Year of the City.

Mayor means the Mayor of the City, or his/her successor in functions, if any.

Net Revenues means Revenue of the System after the deduction of Operation and Maintenance Expenses.

Operation and Maintenance Expenses or any phrase of similar import means all reasonable and necessary current expenses of the City, (except depreciation), paid or accrued, of operating, maintaining, and repairing the System or of levying, collecting, and otherwise

administering the Net Revenues for the payment of the Bond; and the term includes (except as limited by contract or otherwise limited by law) without limiting the generality of the foregoing:

- (1) Engineering, auditing, reporting, legal, and other overhead expenses of the various City departments directly relating and reasonably allocable to the administration of the System;
- (2) Fidelity bonds and property and liability insurance premiums pertaining to the System, or a reasonably allocable share of a premium of any blanket bond or policy pertaining thereto;
- (3) Payments to pension, retirement, health, and hospitalization funds and other insurance;
- (4) Any taxes, assessments, excise taxes, or other charges which may be lawfully imposed on the City, the System, revenues therefrom, or any privilege in connection with their operation;
- (5) The reasonable charges of the bond registrar, fiscal or paying agent, commercial bank, trust bank, or other depository bank pertaining to the Bonds issued by the City or pertaining to the Project, if any;
- (6) Contractual services, professional services, salaries, other administrative expenses, and the cost of materials, supplies, repairs, and labor, pertaining to the issuance of the Bond and to the ordinary operation of the System; and
- (7) All other administrative, general, and commercial expenses.

Ordinance means this Ordinance No. 2012-7, adopted on November 8, 2012.

Record Date means in the case of each Interest Payment Date, the Bond Registrar's close of business on the fifteenth day next preceding the date on which such Interest Payment Date falls.

Refunded Bonds means the Series 2006A Bonds and the Series 2006B Bonds.

Registered Owner means the purchaser of the Bond and any subsequent transferee or purchaser of the Bond.

Regulations means the Treasury Regulations issued or proposed under Section 103, Section 148, Section 149, or Section 150 of the Code (26 CFR Part 2) or other sections of the Code relating to "arbitrage bonds" or rebate, including without limitation Sections 1.148-0 through 1.148-11 and 1.150-1 of the Treasury Regulations, to the extent applicable, and includes amendments thereto or successor provisions.

Revenue Fund means the “City of St. Anthony Sewer Revenue Fund” referred to in Sections 8(A) and 8(D) of this Ordinance.

Revenue of the System shall have the same meaning as the definition of “System Revenues” in the Loan Agreement.

Series 2006A Bonds means the “City of St. Anthony Sewer Revenue Bonds, Series 2006A,” issued on March 6, 2006, in the principal amount of \$3,000,000 pursuant to Ordinance No. 2006-1, adopted on February 22, 2006.

Series 2006B Bonds means the “City of St. Anthony Sewer Revenue Bonds, Series 2006B,” issued on November 14, 2006 in the principal amount of \$2,000,000 pursuant to Ordinance No. 2006-11, adopted on March 8, 2006.

System means the sanitary sewer collection and treatment system of the City, as the same now exists, including its assets, real and personal, tangible and intangible, and as it may later be added to, extended, and improved, and shall include buildings, structures, utilities, or other income producing sewer facilities from the operation of or in connection with which the revenues of the payment of the Bond to be issued hereunder will be derived, and the lands pertaining thereto.

Treasurer means the Treasurer of the City, or his/her successor in functions, if any.

Treasury Regulations means the Treasury Regulations issued or proposed under Section 103, Section 148, Section 149, or Section 150 of the Code (26 CFR Part 2) or other sections of the Code relating to “arbitrage bonds” or rebate, including without limitation Sections 1.148-0 through 1.148-11 and 1.150-1 of the Treasury Regulations, to the extent applicable, and includes amendments thereto or successor provisions.

Trustee means the Bank of New York Mellon Trust Company, N.A. or such other trustee designated by the Authority pursuant to the Master Trust Agreement and latest Supplemental Trust Agreement between the Authority and the Bank of New York Mellon Trust Company, N.A., as such agreements may be amended from time to time (collectively the “Trust Agreement”).

Written Certificate means an instrument in writing on behalf of the City executed by an authorized officer of the City.

Section 2: FINDINGS

The Mayor and Council hereby find, determine, and declare:

A. That the City’s Refunded Bonds can be refunded at a cost saving to the benefit of the City and its utility ratepayers; that it is desirable and necessary for the benefit of the City and its utility ratepayers to refund the Refunded Bonds for the purpose of achieving a cost saving and other beneficial public objectives; and that the net proceeds of the Bond, together with other lawfully available moneys of the City, to the extent necessary, shall be used to refund the Refunded Bonds.

B. That it is the intent of the Mayor and Council to issue the Bond for the purpose of providing funds in an amount sufficient, together with other lawfully available funds of the City, if necessary, to refund, redeem, and retire the Refunded Bonds.

Section 3: THE BOND

The Bond, designated “City of St. Anthony Sewer Revenue Refunding Bond, Series 2012” (the “Bond”), in an aggregate principal amount not to exceed \$4,107,463, is hereby authorized to be issued, sold, and delivered pursuant to the Act. The Bond shall consist of a single, transferrable, amortized revenue bond, substantially in the form annexed hereto as Exhibit “B,” shall be issued in fully registered form, shall be dated as of its date of delivery, and shall bear interest on its unpaid principal balance at such rate or rates, shall be payable at such times and in such amounts, and shall mature, as shall be set forth in the Loan Agreement.

Section 4: EXECUTION

The Bond shall be executed by the manual signature of the Mayor, countersigned by the manual signature of the Treasurer, and attested by the manual signature of the City Clerk, and the seal of the City shall be impressed thereon.

Section 5: PLACE AND MANNER OF PAYMENT

Both principal of and interest on the Bond shall be payable in lawful money of the United States of America to the Registered Owner thereof, at the address of such Registered Owner as shown on the registration records of the City, or at such other address as shall be designated in writing to the City by the Registered Owner.

Section 6: BOND REGISTRAR

The Treasurer is hereby appointed as bond registrar, transfer agent and paying agent, and is herein referred to as the “Bond Registrar.” The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bond. The Bond Registrar is authorized, on behalf of the City, to carry out all of the Bond Registrar’s powers and duties under this Ordinance.

The Bond may be transferred only upon the books for the registration and transfer of bonds (the “Bond Register”), upon the surrender thereof to the Bond Registrar, together with a form of transfer duly executed by the Registered Owner or its attorney duly authorized in writing. Upon the transfer of the Bond, there shall be issued in the name of the transferee or transferees a new fully registered bond or bonds of any authorized denomination or denominations and of the same maturity and interest rate, and of the same aggregate principal amount, as the surrendered Bond. The new bond or bonds shall bear the same date as the date of the surrendered bond, but shall bear interest from the immediately preceding interest payment date to which interest has been paid or fully provided for.

This Section is intended to provide the system of registration required by Chapter 9, Title 57, Idaho Code.

Section 7: PRE-PAYMENT; DEFEASANCE

The City shall have the option to prepay the Bond, in whole or in part, in accordance with the prepayment provisions of the Loan Agreement.

In the event that money and/or government obligations, maturing or having guaranteed redemption prices at the option of the owner at such time or times and bearing interest to be earned thereon in such amounts as are sufficient (together with any resulting cash balances) to redeem and retire part or all of the Bond in accordance with its terms, are hereafter irrevocably set aside in a special account and pledged to effect such redemption and retirement, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on the Bond so provided for, and the Bond and interest accrued thereon shall then cease to be entitled to any lien, benefit, or security of this Ordinance, except the right to receive the funds so set aside and pledged, and the Bond and interest accrued thereon shall no longer be deemed to be outstanding hereunder.

Section 8: FUNDS AND ACCOUNTS – REDEMPTION OF REFUNDED BOND

A. Establishment of Funds and Accounts. The following funds and accounts are created or confirmed with respect to the Bond.

1. Bond Fund, to be held by the City.
2. Cost of Issuance Fund, to be held by the Trustee.
3. Revenue Fund, to be held by the City.

B. Delivery of Bond; Application of Proceeds. The Trustee is hereby instructed to receive payment therefor in accordance with the terms of this Ordinance and deposit the proceeds of sale as follows:

1. A portion of the proceeds of sale of the Bond, as shall be designated by Written Certificate of the City, shall be deposited in the Cost of Issuance Fund to be used as provided in the Loan Agreement.
2. Accrued interest on the Bond from its date to the date of delivery, if any, shall be deposited into the Bond Fund.
3. The remaining proceeds of sale of the Bond shall be deposited into the fund established by the Trustee for the redemption of the Refunded Bonds.

C. Redemption of Refunded Bonds; Pledge, Etc.

1. The Refunded Bonds are hereby irrevocably called for redemption on December 20, 2012. Notice of such redemption shall be given as provided in the ordinances pursuant to which the Refunded Bonds were issued. The Refunded Bonds are being redeemed at a redemption price of par plus accrued interest to the date of redemption.
2. Proceeds of the Bond shall be utilized exclusively for the purpose of paying and redeeming, on December 20, 2012, the outstanding principal of the Refunded Bonds, in full, together with interest accrued to the date of redemption.

D. Revenue Fund. There has heretofore been created a special fund known as the "City of St. Anthony Sewer Revenue Fund" (the "Revenue Fund"), which shall be maintained by the Treasurer and into which the Revenue of the System shall be deposited forthwith upon its receipt.

The Revenue of the System shall be used for payment of the following obligations in the following order of priority:

1. First Charge and Lien: the costs of Operation and Maintenance Expenses;
2. Second Charge and Lien: the principal of and interest on the Bond and any Additional Bonds, by payment into the Bond Fund; and
3. To administer surplus funds. Funds remaining in the Revenue Fund, after having been applied to the purposes provided in this Ordinance, shall constitute surplus funds and may be used for the purposes set forth in Section 8(G) of this Ordinance.

E. Bond Fund. There has heretofore been created a special fund known as the "City of St. Anthony Sewer Revenue Bond Fund" (the "Bond Fund"), into which shall be deposited from Net Revenues, the following described revenues:

1. Each semiannual installment of interest and each annual installment of principal payable on the Bond shall be payable into the Bond Fund from the Revenue Fund not less than seventeen (17) days prior to each payment date, and paid from the Bond Fund to the Trustee for the Registered Owner not less than fifteen (15) days before each payment date. The moneys herein allocated shall be used solely to pay currently maturing installments of principal of and interest on the Bond.
2. Interest earnings on deposits in the Bond Fund shall remain in the Bond Fund to be used for the purposes of the Bond Fund.

F. Cost of Issuance Fund. There is hereby established in the hands of the Trustee a separate fund designated as the “Cost of Issuance Fund.” At the time of the delivery of the Bond, the City shall deposit into the Cost of Issuance Fund such amount as shall be required to pay the reasonable and necessary costs of issuance of the Bond. Moneys in the Cost of Issuance Fund shall be used for the payment of costs of issuance of the Bond. Any moneys remaining in the Cost of Issuance Fund on the date of the full and final payment of all costs of issuance of the Bond shall be transferred to the City and deposited into the Bond Fund.

G. Surplus Funds. Funds remaining in the Revenue Fund after having been applied to or designated funds for the purposes provided in Section 8D of this Ordinance shall constitute surplus funds and may be used for any of the following purposes:

1. To pay the costs of unusual or extraordinary maintenance of or repair to the System;
2. To pay the principal of and interest on any subordinate lien obligations which may have been issued to provide sewer facilities in or for the City;
3. To improve, extend, enlarge, or replace any sewer facilities;
4. To acquire or construct additional sewer facilities in or for the City;
5. To prepay the principal, interest, and any costs of the Bond; and
6. For any other lawful purpose.

Section 9: ADDITIONAL BONDS OR OTHER OBLIGATIONS

Additional Bonds or other obligations payable from Net Revenues on a parity with (but not superior to) the Bond may be issued by the City upon compliance by the City with provisions for additional parity debt set forth in the Loan Agreement.

Section 10: INVESTMENTS

Surplus funds in any of the funds set forth in this Ordinance may be invested in securities as permitted by law.

Section 11: GENERAL COVENANTS

For the protection and security of the Bond, it is covenanted and agreed to and with the Registered Owner of the Bond from time to time, that the City will perform the following covenants:

A. Operate System. It will operate the System in an efficient and economical manner and prescribe, revise, and collect such charges in connection therewith so that the services,

facilities, and properties of the System may be furnished at the lowest possible cost consistent with sound economy and prudent management.

B. Good Repair. It will operate, maintain, preserve, and keep the System and every part hereof in good repair, working order, and condition.

C. Preserve Security. It will preserve and protect the security of the Bond and the rights of the Registered Owner thereof.

D. Collect Revenues. It will collect and hold in trust the revenues and other funds pledged to the payment of the Bond and apply such revenue or other funds only as provided in this Ordinance.

E. Service Bond. It will pay and cause to be paid punctually the principal of the Bond and the interest thereon on the date or dates and at the place or places and in the manner provided in the Bond, and in accordance with this Ordinance.

F. Pay Claims. It will pay and discharge any and all lawful claims for labor, materials, and supplies which, if unpaid, might by law become a lien or charge upon the Revenue of the System, or any part of said Revenue of the System, or any funds in the hands of the Treasurer, prior or superior to the lien of the Bond or which might impair the security of the Bond, to the end that the priority and security of the Bond shall be fully preserved and protected.

G. Encumbrances. It will not mortgage or otherwise encumber, sell, lease, or dispose of the System or any part thereof, nor enter into any lease or agreement which would impair or impede the operation of the System or any part thereof necessary to secure adequate revenues for the payment of the principal of and interest on the Bond, nor which would otherwise impair or impede the rights of the Registered Owner of the Bond with respect to such revenues of the operation of the System without provisions for the retirement of the Bond then outstanding from the proceeds thereof.

H. Insurance. It will procure and keep in force insurance upon all buildings and structures of the System and the machinery and equipment therein, which are usually insured by entities operating like property, in good and responsible insurance companies. The amount of the insurance shall be such as may be required to adequately protect it and the Registered Owner of the Bond from loss due to any casualty, and in the event of any such loss, the proceeds shall be used to repair or restore the System or for the payment of the Bond issued under this Ordinance.

I. Fidelity Bonds. It will procure suitable fidelity bonds covering all of its officers and other employees charged with the operation of the System and the collection and disbursement of revenues therefrom.

J. Engineers. It will employ consulting engineers of acknowledged reputation, skill, and experience in the improvement and operation of the System for any unusual or extraordinary items of maintenance, repair, or betterments as shall be required from time to time, all reports,

estimates, and recommendations of such consulting engineers to be filed with the Clerk and furnished to the Registered Owner of the Bond issued hereunder, upon request.

K. Accounts. It will keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the System, and it will furnish complete operating and income statements upon request.

L. Delinquencies. It will not furnish sewer service to any customer whatsoever free of charge, and it shall not later than sixty (60) days after an account becomes delinquent, take such legal action as may be reasonable to enforce collection of any collectible delinquent account.

Section 12: SPECIAL COVENANTS

The City further covenants and agrees:

A. In accordance with Section 149(a) of the Internal Revenue Code of 1986, as amended (the "Code"), the Bond, and any serial bonds to which they may be converted, shall be issued and remain in fully registered form in order that interest thereon be excluded from gross income of the owner or owners for federal income tax purposes. The City covenants and agrees that it will take no action to permit the Bond, or any serial bonds to which it may be converted, to be issued in or converted to bearer or coupon form.

B. None of the proceeds of the Bond will be used, directly or indirectly, (i) to make or finance loans to persons or (ii) in any trade or business carried on by any person (other than as a member of the general public). For purposes of the preceding sentence, the term "person" does not include a government unit other than the United States or any agency or instrumentality thereof, and the term "trade or business" means any activity carried on by a person other than a natural person. The City further covenants and agrees to take no action which would cause the Bond to become a "private activity bond," nor will it omit to take any action necessary to prevent the Bond from becoming a "private activity bond," within the meaning of Section 141 of the Code.

C. The Mayor, Clerk, and Treasurer, and other appropriate officials of the City, or any one or more of such officials, as may be appropriate, are each hereby authorized and directed to execute, on behalf of the City, such certificate or certificates as shall be necessary to establish that the Bond is not an "arbitrage bond" within the meaning of Section 148 of the Code and the Treasury Regulations promulgated thereunder, and to establish that interest on the Bond is not and will not become includable in the gross income of the Registered Owner of the Bond under the Code and applicable regulations. The City covenants and agrees that no use will be made of the proceeds of the Bond, or any funds of the City which may, pursuant to Section 148 of the Code and applicable regulations, be deemed to be proceeds of the Bond, which would cause the Bond to become an "arbitrage bond" within the meaning of Section 148 of the Code. The City further covenants to comply throughout the term of the Bond with the requirements of Section 148 of the Code and the regulations promulgated thereunder in order to prevent the Bond from becoming an "arbitrage bond."

D. The City will comply with the information reporting requirements of Section 149(e) of the Code.

E. None of the proceeds of the Bond will be used to reimburse the City for capital expenditures made prior to the date of delivery of the Bond unless the City, not later than 60 days after the payment of such expenditure, shall have adopted an official intent resolution as provided by Section 1.150-2 of the Treasury Regulations.

Section 13: LOAN AGREEMENT

The Loan Agreement, substantially in the form annexed hereto as Exhibit "C," is hereby approved. The Mayor and City Clerk, or such officer's designee, are each hereby authorized and directed, on behalf of the City, to execute and attest, respectively, and to deliver the Loan Agreement; provided, however, that (i) the term of the Loan Agreement shall end no later than September 15, 2037; (ii) the principal amount set forth in the Loan Agreement shall not exceed \$4,107,463; and (iii) the true interest cost on the Bond shall not exceed 3.50%. The sale of the Bond to the Authority in accordance with the Loan Agreement is hereby approved. The City shall comply with all terms and provisions of the Loan Agreement, and, in the event that any provision of this Ordinance or the Bond is inconsistent with the provisions of the Loan Agreement, the provisions of the Loan Agreement shall control.

Section 14: AMENDMENTS

A. The City from time to time and at any time may adopt an ordinance or ordinances supplemental hereto, which ordinance or ordinances thereafter shall become a part of this Ordinance, for any one or more of all of the following purposes:

1. To add to the covenants and agreements of the City in this Ordinance, other covenants and agreements thereafter to be observed, which shall not adversely affect the interest of the Registered Owner of the Bond, or to surrender any right or power herein reserved.
2. To make such provisions for the purpose of curing any ambiguities or of curing, correcting, or supplementing any defective provisions contained in this Ordinance, or any ordinance authorizing future bonds in regard to matters or questions arising under such ordinances as the Council may deem necessary or desirable and not inconsistent with such ordinances and which shall not adversely affect, in any material respect, the interest of the Registered Owner of the Bond.

Any such supplemental ordinance may be adopted without the consent of the Registered Owner of the Bond at any time outstanding, notwithstanding any of the provisions of subsection B of this Section.

B. With the consent of the Registered Owner of not less than 75% in aggregate principal amount of the Bond at the time outstanding, the Council may adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall:

1. Extend the fixed maturities of the Bond, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, if applicable, without the consent of the Registered Owner of the Bond so affected; or
2. Reduce the aforesaid percentage of the Registered Owner required to approve any such supplemental ordinance.

It shall not be necessary for the consent of the Registered Owner under this subsection B to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

C. Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations of the City under this Ordinance and the Registered Owner of the Bond outstanding hereunder shall thereafter be determined, exercised, and enforced thereunder, subject in all respects to such modification and amendments, and all terms and conditions of any such supplemental ordinance shall be deemed to be part of the terms and conditions of this Ordinance for any and all purposes.

D. Any bond executed and delivered after the execution of any supplemental ordinance adopted pursuant to the provisions of this Section may have a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, new bonds so modified as to conform, in the opinion of the Council, to any modification of this Ordinance contained in any such supplemental ordinance, may be prepared and delivered without cost to the Registered Owner of the Bond then outstanding, upon surrender for cancellation of the Bond.

Section 15: VALIDITY OF ISSUANCE

The Bond is issued pursuant to the Idaho Revenue Bond Act, being Idaho Code Sections 50-1027 through 50-1042. This recital is conclusive evidence of the validity of the Bond and the regularity of its issuance.

Section 16: REGISTERED OWNER'S REMEDIES - RECEIVER

By action or suit in equity, the Registered Owner or subsequent Owner of the Bond may, in the event of a material violation of any of the foregoing covenants, cause the appointment of a receiver, which receiver may enter and take possession of the System and any Net Revenues for

the payment of the Bond, prescribe fees to be derived from the System, and collect, receive, and apply all Net Revenues of other moneys pledged for the payment of the Bond in the same manner as the City might do in accordance with the obligations of the City. In addition, the Registered Owner shall have the remedies set forth in the Loan Agreement.

Section 17: ORDINANCE A CONTRACT

The provisions of this Ordinance shall constitute a contract between the City and the Registered Owner so long as the Bond hereby authorized remains unpaid.

Section 18: SEVERABILITY

If any one or more of the covenants or agreements provided in this Ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bond.

Section 19: REPEALER

All other ordinances or parts thereof, to the extent inconsistent herewith, are hereby repealed and shall, to the extent of such inconsistency, have no further force or effect.

Section 20: AUTHORIZATION

The Mayor, City Clerk, and City Treasurer, or any one of such officers, as may be appropriate to the circumstances, are hereby authorized to execute, on behalf of the City, the Bond and all such additional documents as may be necessary to effect the sale and delivery of the Bond.

Section 21: PUBLICATION

This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form annexed hereto as Exhibit "A," shall be published once in the official newspaper of the City, and shall take effect immediately upon passage, approval, and publication.

DATED this 8th day of November, 2012.

CITY OF ST. ANTHONY
Fremont County, Idaho

ATTEST:

By *Karl L. Luman*
Mayor

D. Harrah Parkman
City Clerk

(S E A L)

