

RESOLUTION NO. 2019-44

Resolution authorizing and approving a Loan Agreement, providing for the issuance and securing the payment of \$2,340,000 Electric Revenue Bonds, Series 2019

WHEREAS, the City of Hawarden, in Sioux County, State of Iowa (the "City"), did heretofore establish a Municipal Electric Utility System (the "Utility"), in and for the City, which has continuously supplied electrical service in and to the City and its inhabitants since its establishment; and

WHEREAS, the management and control of the Utility are vested in the City Council (the "Council") and no board of trustees exists for this purpose; and

WHEREAS, pursuant to a prior resolution of the Council, the City has heretofore issued its \$2,890,000 Electric Revenue Improvement Bonds, Series 2015, dated May 5, 2015 (the "Series 2015 Bonds"), a portion of which remain outstanding; and

WHEREAS, pursuant to a prior resolution of the Council, the City has heretofore issued its \$2,655,000 Electric Revenue Refunding Bonds, Series 2016, dated October 27, 2016 (the "Series 2016 Bonds"), a portion of which remain outstanding; and

WHEREAS, pursuant to the resolutions (the "Outstanding Bond Resolutions") authorizing the issuance of the Series 2015 Bonds and the Series 2016 Bonds (hereinafter together referred to as the "Outstanding Bonds"), the City reserved the right to issue additional obligations payable from the net revenues of the Utility and ranking on a parity with the Outstanding Bonds under the terms and conditions set forth in the Outstanding Bond Resolutions; and

WHEREAS, the Council has heretofore proposed to enter into an Electric Revenue Loan Agreement (the "Loan Agreement") and to borrow money thereunder in a principal amount not to exceed \$2,950,000, pursuant to the provisions of Section 384.24A of the Code of Iowa, for the purpose of paying the cost, to that extent, of constructing improvements and extensions to the Utility, and has published notice of the proposed action and has held a hearing thereon on July 10, 2019;

WHEREAS, a Preliminary Official Statement (the "P.O.S.") has been prepared to facilitate the sale of Electric Revenue Bonds, Series 2019 (the "Bonds") in evidence of the obligation of the City under the Loan Agreement, and the City Council has made provision for the approval of the P.O.S. and has authorized its use by D.A. Davidson & Co. (the "Underwriter"); and

WHEREAS, the City has entered into a certain Bond Purchase Agreement (the "Bond Purchase Agreement") with the Underwriter with respect to the Loan Agreement and the Bonds; and

WHEREAS, it is now necessary to make final provision for approval of the Loan Agreement, to authorize the issuance of the Bonds, as Parity Obligations under the Outstanding Bond Resolutions;

NOW, THEREFORE, Be It Resolved by the City Council of the City of Hawarden, Iowa, as follows:

Section 1. The City shall enter into the Loan Agreement with the Underwriter in substantially the form as has been placed on file with the City Council, providing for a loan to the City in the principal amount of \$2,340,000, for the purpose set forth in the preamble hereof.

The Mayor and City Clerk are authorized and directed to sign the Loan Agreement on behalf of the City, and the Loan Agreement is hereby approved.

Section 2. The Bonds, in the aggregate principal amount of \$2,340,000, are hereby authorized to be issued in evidence of the City's obligations under the Loan Agreement. The Bonds shall be dated September 12, 2019, shall be issued in the denomination of \$5,000 each or any integral multiple thereof and shall mature on June 1 in each of the years, in the respective principal amounts, and bear interest at the respective rates as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate Per Annum</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate Per Annum</u>
2020	\$ 60,000	3.000%	2027	\$105,000	4.000%
2021	\$ 90,000	3.000%	2028	\$110,000	4.000%
2022	\$ 90,000	3.000%	2031	\$355,000	3.000%
2023	\$ 95,000	3.000%	2033	\$255,000	4.000%
2024	\$ 95,000	3.000%	2036	\$420,000	4.000%
2025	\$100,000	3.000%	2039	\$465,000	2.850%
2026	\$100,000	3.000%			

Section 4. BOKF, N.A., Lincoln, Nebraska, is hereby designated as the Registrar and Paying Agent for the Bonds and may be hereinafter referred to as the "Registrar" or the "Paying Agent." The City shall enter into an agreement (the "Registrar/Paying Agent Agreement") with the Registrar, in substantially the form as has been placed on file with the City Council; the Mayor and City Clerk are hereby authorized and directed to sign the Registrar/Paying Agent Agreement on behalf of the City; and the Registrar/Paying Agent Agreement is hereby approved.

The City reserves the right to optionally prepay part or all of the principal of the Bonds maturing in the years 2027 to 2039, inclusive, prior to and in any order of maturity on June 1, 2026, or on any date thereafter upon terms of par and accrued interest. If less than all of the Bonds of any like maturity are to be redeemed, the particular part of those Bonds to be redeemed shall be selected by the Registrar by lot. The Bonds may be called in part in one or more units of \$5,000.

Principal of the Bond maturing on June 1, 2031 is subject to mandatory redemption (by lot, as selected by the Registrar) on June 1, 2029 and June 1, 2030, at a redemption price of 100% of the principal amount thereof to be redeemed, plus accrued interest thereon to the redemption date, in the following principal amounts:

<u>Year</u>	<u>Principal Amount</u>
2029	\$115,000
2030	\$120,000
2031	\$120,000 (Maturity)

Principal of the Bond maturing on June 1, 2033 is subject to mandatory redemption (by lot, as selected by the Registrar) on June 1, 2032, at a redemption price of 100% of the principal amount thereof to be redeemed, plus accrued interest thereon to the redemption date, in the following principal amounts:

<u>Year</u>	<u>Principal Amount</u>
2032	\$125,000
2033	\$130,000 (Maturity)

Principal of the Bond maturing on June 1, 2036 is subject to mandatory redemption (by lot, as selected by the Registrar) on June 1, 2034 and June 1, 2035, at a redemption price of 100% of the principal amount thereof to be redeemed, plus accrued interest thereon to the redemption date, in the following principal amounts:

<u>Year</u>	<u>Principal Amount</u>
2034	\$135,000
2035	\$140,000
2036	\$145,000 (Maturity)

Principal of the Bond maturing on June 1, 2039 is subject to mandatory redemption (by lot, as selected by the Registrar) on June 1, 2037 and June 1, 2038, at a redemption price of 100% of the principal amount thereof to be redeemed, plus accrued interest thereon to the redemption date, in the following principal amounts:

<u>Year</u>	<u>Principal Amount</u>
2037	\$150,000
2038	\$155,000
2039	\$160,000 (Maturity)

If less than the entire principal amount of any Bond in a denomination of more than \$5,000 is to be redeemed, the Registrar will issue and deliver to the registered owner thereof, upon surrender of such original Bond, a new Bond or Bonds, in any authorized denomination, in a total aggregate principal amount equal to the unredeemed balance of the original Bond. Notice of such redemption as aforesaid identifying the Bond or Bonds (or portion thereof) to be

redeemed shall be sent by electronic means or mailed by certified mail to the registered owners thereof at the addresses shown on the City's registration books not less than 30 days prior to such redemption date. Any notice of redemption may contain a statement that the redemption is conditioned upon the receipt by the Paying Agent of funds on or before the date fixed for redemption sufficient to pay the redemption price of the Bonds so called for redemption, and that if funds are not available, such redemption shall be cancelled by written notice to the owners of the Bonds called for redemption in the same manner as the original redemption notice was sent. All of such Bonds as to which the City reserves and exercises the right of redemption and as to which notice as aforesaid shall have been given and for the redemption of which funds are duly provided, shall cease to bear interest on the redemption date.

Accrued interest on the Bonds shall be payable semiannually on the first day of June and December in each year, commencing June 1, 2020. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months. Payment of interest on the Bonds shall be made to the registered owners appearing on the registration books of the City at the close of business on the fifteenth day of the month next preceding the interest payment date and shall be paid to the registered owners at the addresses shown on such registration books. Principal of the Bonds shall be payable in lawful money of the United States of America to the registered owners or their legal representatives upon presentation and surrender of the Bond or Bonds at the office of the Paying Agent.

The Bonds shall be executed on behalf of the City with the official manual or facsimile signature of the Mayor and attested with the official manual or facsimile signature of the City Clerk, and shall be fully registered Bonds without interest coupons. The issuance of the Bonds shall be recorded in the office of the City Treasurer, and the certificate on the back of each Bond shall be executed with the official manual or facsimile signature of the City Treasurer. In case any officer whose signature or the facsimile of whose signature appears on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

The Bonds shall not be valid or become obligatory for any purpose until the Certificate of Authentication thereon shall have been signed by the Registrar.

All of the Bonds and the interest thereon, together with the Outstanding Bonds and any additional obligations as may be hereafter issued and outstanding from time to time ranking on a parity therewith under the conditions set forth herein (which additional obligations are hereinafter sometimes referred to as "Parity Obligations"), shall be payable solely from the Net Revenues of the Utility and the Sinking Fund and certain funds pledged to the payment thereof, which are hereby pledged to the payment of the Bonds. The Bonds shall be a valid claim of the owners thereof only against said Net Revenues and Sinking Fund and certain funds pledged to the payment thereof. None of the Bonds shall be a general obligation of the City, nor payable in any manner by taxation, and under no circumstances shall the City be in any manner liable by reason of the failure of the Net Revenues of the Utility to be sufficient for the payment in whole or in part of the Bonds and the interest thereon.

The Bonds shall be fully registered as to principal and interest in the names of the owners on the registration books of the City kept by the Registrar, and after such registration, payment of the principal thereof and interest thereon shall be made only to the registered owners, or their legal representatives or assigns. Each Bond shall be transferable only upon the registration books of the City upon presentation to the Registrar, together with either a written instrument of transfer satisfactory to the Registrar or the assignment form thereon completed and duly executed by the registered owner or the duly authorized attorney for such registered owner.

The record and identity of the owners of the Bonds shall be kept confidential as provided by Section 22.7 of the Code of Iowa.

Section 5. Notwithstanding anything above to the contrary, the Bonds shall be issued initially as Depository Bonds, with one fully registered Bond for each maturity date, in principal amounts equal to the amount of principal maturing on each such date, and registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"). On original issue, the Bonds shall be deposited with DTC for the purpose of maintaining a book-entry system for recording the ownership interests of its participants and the transfer of those interests among its participants (the "Participants"). In the event that DTC determines not to continue to act as securities depository for the Bonds or the City determines not to continue the book-entry system for recording ownership interests in the Bonds with DTC, the City will discontinue the book-entry system with DTC. If the City does not select another qualified securities depository to replace DTC (or a successor depository) in order to continue a book-entry system, the City will register and deliver replacement bonds in the form of fully registered certificates, in authorized denominations of \$5,000 or integral multiples of \$5,000, in accordance with instructions from Cede & Co., as nominee for DTC. In the event that the City identifies a qualified securities depository to replace DTC, the City will register and deliver replacement bonds, fully registered in the name of such depository, or its nominee, in the denominations as set forth above, as reduced from time to time prior to maturity in connection with redemptions or retirements by call or payment, and in such event, such depository will then maintain the book-entry system for recording ownership interests in the Bonds.

Ownership interest in the Bonds may be purchased by or through Participants. Such Participants and the persons for whom they acquire interests in the Bonds as nominees will not receive certificated Bonds, but each such Participant will receive a credit balance in the records of DTC in the amount of such Participant's interest in the Bonds, which will be confirmed in accordance with DTC's standard procedures. Each such person for which a Participant has an interest in the Bonds, as nominee, may desire to make arrangements with such Participant to have all notices of redemption or other communications of the City to DTC, which may affect such person, forwarded in writing by such Participant and to have notification made of all interest payments.

The City will have no responsibility or obligation to such Participants or the persons for whom they act as nominees with respect to payment to or providing of notice for such Participants or the persons for whom they act as nominees.

As used herein, the term "Beneficial Owner" shall hereinafter be deemed to include the person for whom the Participant acquires an interest in the Bonds.

DTC will receive payments from the City, to be remitted by DTC to the Participants for subsequent disbursement to the Beneficial Owners. The ownership interest of each Beneficial Owner in the Bonds will be recorded on the records of the Participants whose ownership interest will be recorded on a computerized book-entry system kept by DTC.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference shall only relate to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When notices are given, they shall be sent by the City to DTC, and DTC shall forward (or cause to be forwarded) the notices to the Participants so that the Participants can forward the same to the Beneficial Owners.

Beneficial Owners will receive written confirmations of their purchases from the Participants acting on behalf of the Beneficial Owners detailing the terms of the Bonds acquired. Transfers of ownership interest in the Bonds will be accomplished by book entries made by DTC and the Participants who act on behalf of the Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except as specifically provided herein. Interest and principal will be paid when due by the City to DTC, then paid by DTC to the Participants and thereafter paid by the Participants to the Beneficial Owners.

Section 6. The Bonds shall be in substantially the following form:

Resolution at a redemption price of 100% of the principal amount thereof to be redeemed, plus accrued interest thereon to the redemption date.

If less than the entire principal amount of any Bond in a denomination of more than \$5,000 is to be redeemed, the Registrar will issue and deliver to the registered owner thereof, upon surrender of such original Bond, a new Bond or Bonds, in any authorized denomination, in a total aggregate principal amount equal to the unredeemed balance of the original Bond. Notice of such redemption as aforesaid identifying the Bond or Bonds (or portion thereof) to be redeemed shall be sent by electronic means or by certified mail to the registered owners thereof at the addresses shown on the City's registration books not less than 30 days prior to such redemption date. All of such Bonds as to which the City reserves and exercises the right of redemption and as to which notice as aforesaid shall have been given and for the redemption of which funds are duly provided, shall cease to bear interest on the redemption date.

The Bonds are not general obligations of the City but, together with the City's outstanding Electric Revenue Improvement Bonds, Series 2015, dated May 5, 2015; Electric Revenue Refunding Bonds, Series 2016, dated October 27, 2016; and any additional obligations as may be hereafter issued and outstanding from time to time ranking on a parity therewith under the conditions set forth in the Resolution, are payable solely and only out of the future Net Revenues of the Utility, a sufficient portion of which has been ordered set aside and pledged for that purpose. This Bond is not payable in any manner by taxation, and under no circumstances shall the City be in any manner liable by reason of the failure of the said Net Revenues to be sufficient for the payment of this Bond and the interest hereon.

This Bond is fully negotiable but shall be fully registered as to both principal and interest in the name of the owner on the books of the City in the office of the Registrar, after which no transfer shall be valid unless made on said books and then only upon presentation of this Bond to the Registrar, together with either a written instrument of transfer satisfactory to the Registrar or the assignment form hereon completed and duly executed by the registered owner or the duly authorized attorney for such registered owner.

The City, the Registrar and the Paying Agent may deem and treat the registered owner hereof as the absolute owner for the purpose of receiving payment of or on account of principal hereof, premium, if any, and interest due hereon and for all other purposes, and the City, the Registrar and the Paying Agent shall not be affected by any notice to the contrary.

And It Is Hereby Certified, Recited and Declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds have existed, have happened and have been performed in due time, form and manner, as required by law, and that the issuance of the Bonds does not exceed or violate any constitutional or statutory limitation or provision.

IN TESTIMONY WHEREOF, the City of Hawarden, Iowa, by its City Council, has caused this Bond to be executed with the duly authorized facsimile signature of the Mayor and attested with the duly authorized facsimile signature of the City Clerk, all as of September 12, 2019.

CITY OF HAWARDEN, IOWA

By (Facsimile Signature)
Mayor

Attest:

(Facsimile Signature)
City Clerk

Registration Date: (Registration Date)

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

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

BOKF, N.A.
Lincoln, Nebraska
Registrar

By (Facsimile Signature)
Authorized Officer

STATEMENT OF INSURANCE

Build America Mutual Assurance Company ("BAM"), New York, New York, has delivered its municipal bond insurance policy (the "Policy") with respect to the scheduled payments due of principal of and interest on this Bond to BOKF, N.A., Lincoln, Nebraska or its successor, as paying agent for the Bonds (the "Paying Agent"). Said Policy is on file and available for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from BAM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of these Bonds, the owner acknowledges and consents (i) to the subrogation and all other rights of BAM as more fully set forth in the Policy and (ii) that upon the occurrence and continuance of a default or an event of default under the Resolution or this Bond, BAM shall be deemed to be the sole owner of the Bonds for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the owners of the Bonds or the trustee, paying agent, registrar or similar agent for the benefit of such owners under the Resolution, at law or in equity.

STATE OF IOWA
COUNTY OF SIOUX
CITY OF HAWARDEN

SS: CITY TREASURER'S CERTIFICATE

The original issuance of the Bonds, of which this Bond is a part, was duly and properly recorded in my office as of September 12, 2019.

By (Facsimile Signature)
City Treasurer, Hawarden, Iowa

ABBREVIATIONS

The following abbreviations, when used in this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	-	as tenants in common	UTMA _____ (Custodian)
TEN ENT	-	as tenants by the entireties	As Custodian for _____ (Minor)
TEN	-	as joint tenants with right of survivorship and not as tenants in common	under Uniform Transfers to Minors Act _____ (State)

Additional abbreviations may also be used though not in the list above.

ASSIGNMENT

For valuable consideration, receipt of which is hereby acknowledged, the undersigned assigns this Bond to

(Please print or type name and address of Assignee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

and does hereby irrevocably appoint _____, Attorney, to transfer this Bond on the books kept for registration thereof with full power of substitution.

Dated: _____

Signature guaranteed:

Signature(s) must be guaranteed by an eligible guarantor institution which is a member of a recognized signature guarantee program.

NOTICE: The signature to this Assignment must correspond with the name of the registered owner as it appears on this Bond in every particular, without alteration or enlargement or any change whatever.

Section 7 The Bonds shall be executed as herein provided as soon after the adoption of this resolution as may be possible and thereupon they shall be delivered to the Registrar for registration, authentication and delivery to or on behalf of the Underwriter, upon receipt of the loan proceeds, including original issue premium (\$154,824.40) (the "Loan Proceeds"), and all action heretofore taken in connection with the Loan Agreement is hereby ratified and confirmed in all respects.

A portion of the Loan Proceeds (\$40,950) will be retained by the Underwriter as the Underwriter's Discount.

A portion of the Loan Proceeds (\$14,613.91) received from the sale of the Bonds shall be used to pay the bond insurance premium to Build America Mutual Assurance Company.

A portion of the Loan Proceeds (\$2,400,000), plus the additional proceeds (\$3,986.91), received from the sale of the Bonds shall be deposited in a dedicated fund (the "Project Fund"), which is hereby created, to be used for the payment of costs of the Project and to the extent that such proceeds (the "Project Proceeds") remain after the full payment of the costs of the Project, such Project Proceeds, shall be transferred to the Sinking Fund (as hereinafter defined) for the payment of interest on the Bonds.

A portion of the Loan Proceeds (\$5,023.58) will be used for the payment of premium for the purchasing of a debt service reserve fund insurance policy as referenced in Sections 10(B) and Section 20 below.

The remainder of the Loan Proceeds (\$30,250) (the "Cost of Issuance Proceeds"), received from the sale of the Bonds shall be deposited in the Project Fund, and shall be used for the payment of costs of issuance of the Bonds, and to the extent that Cost of Issuance Proceeds remain after the full payment of the costs of issuance of the Bonds, such Cost of Issuance Proceeds shall be transferred to the Sinking Fund for the payment of interest on the Bonds.

The City shall keep a detailed and segregated accounting of the expenditure of, and investment earnings on, the Loan Proceeds to ensure compliance with the requirements of the Internal Revenue Code, as hereinafter defined.

Section 8. So long as any of the Bonds, the Outstanding Bonds or any Parity Obligations are outstanding, the City shall continue to maintain the Utility in good condition, and the Utility shall continue to be operated in an efficient manner and at a reasonable cost as a revenue producing undertaking. The City Council shall establish, impose, adjust and provide for the collection of rates to be charged to customers of the Utility, including the City, to produce gross revenues (hereinafter sometimes referred to as the "Gross Revenues") at least sufficient to pay the expenses of operation and maintenance of the Utility, which shall include salaries, wages, cost of maintenance and operation, materials, supplies, insurance and all other items normally included under recognized accounting practices (but does not include allowances for depreciation in the valuation of physical property) (which such expenses are hereinafter sometimes referred to as the "Operating Expenses") and to leave a balance of net revenues (herein referred to as the "Net Revenues") equal to at least 110% of the amount of the average annual payments of principal of and interest on all of the Bonds, the Outstanding Bonds and any

Parity Obligations outstanding from time to time, as the same become due, and to maintain a reasonable reserve for the payment of such principal and interest, as hereinafter provided.

Section 9 The provisions, covenants, undertakings and stipulations for the operation of the Utility and for the collection, application and use of the Gross Revenues and income from such operation, as set forth in the Outstanding Bond Resolutions (including without limitation the establishment and maintenance of the funds described therein) shall inure and appertain to the Bonds to the same extent and with like force and effect as if herein set out in full, except only insofar as the same may be inconsistent with this resolution. Such provisions, covenants, undertakings and stipulations shall remain in full force and effect for the benefit of the Underwriter and the Bonds in the event the Outstanding Bonds are paid in full or otherwise cease to be outstanding.

Nothing in this resolution shall be construed to impair the rights vested in the registered holders of the Outstanding Bonds. The amounts herein required to be paid into the various funds hereinafter referred to shall be in addition to all payments required in respect to the Outstanding Bond Resolutions. The provisions of the Outstanding Bond Resolutions and the provisions of this resolution are to be construed whenever possible so that the same will not be in conflict. In the event such construction is not possible, the provisions of the resolution first adopted shall prevail until such time as the obligations authorized by such resolution have been paid or otherwise satisfied as therein provided, at which time the provisions of this resolution shall again prevail.

Section 10. The provisions in and by the Outstanding Bond Resolutions whereby there has been created and is to be maintained an Electric Revenue Fund (herein referred to as the "Revenue Fund") are all hereby ratified and confirmed and after the issuance of the Bonds, the Gross Revenues of the Utility shall continue to be set aside into the City's Revenue Fund. The Revenue Fund shall be used in maintaining and operating the Utility, and after payment of the Operating Expenses shall, to the extent hereinafter provided, be used to pay the principal of and interest on the Bonds, the Outstanding Bonds and any Parity Obligations, and to create and maintain the several separate funds hereinafter established and in the following priority.

A. Sinking Fund. The provisions in and by the Outstanding Bond Resolutions whereby there has been created and is to be maintained an Electric Revenue Bond Sinking Fund (herein referred to as the "Sinking Fund"), and for the payment into said fund from the Net Revenues of the Utility such portion thereof as will be sufficient to pay the interest on and principal of the Outstanding Bonds, are all hereby ratified and confirmed, and all such provisions shall inure and constitute the security for the payment of the interest on and principal of the Bonds hereby authorized as may be outstanding from time to time; provided, however that on the first day of each month of each year, the minimum amount to be set aside, in addition to the amounts required to be set aside in the Outstanding Bond Resolutions and paid into the Sinking Fund shall be not less than as follows:

Commencing on October 1, 2019, and continuing to and including, May 1, 2020 , an amount equal to 1/8th of the installment of interest coming due on June 1, 2020, and, thereafter, commencing on June 1, 2020, and continuing to final maturity, an amount equal to 1/6th of the installment of interest coming due on

the next succeeding interest payment date on the then outstanding Bonds. In addition, commencing on October 1, 2019 and continuing to and including May 1, 2020, an amount equal to 1/8th of the installment of principal coming due on June 1, 2020, and thereafter, commencing on June 1, 2020, and continuing to final maturity, an amount equal to 1/12th of the installment of principal coming due on such Bonds on the next succeeding principal payment date until the full amount of such installment is on deposit in the Sinking Fund.

Money in the Sinking Fund shall be used solely for the purpose of paying principal of and interest on the Bonds, the Outstanding Bonds and any Parity Obligations as the same shall become due and payable. Whenever Parity Obligations are issued under the conditions and restrictions hereinafter set forth, provisions shall be made for additional payments to be made into the Sinking Fund for the purpose of paying the interest on and principal of such Parity Obligations.

If at any time there be a failure to pay into the Sinking Fund the full amount above stipulated, then an amount equivalent to the deficiency shall be paid into the Sinking Fund from the Net Revenues of the Utility as soon as available, and the same shall be in addition to the amount otherwise required to be so set apart and paid into the Sinking Fund.

No further payments need be made into the Sinking Fund when and so long as the amount therein is sufficient to retire all of the Bonds, the Outstanding Bonds and any Parity Obligations then outstanding which are payable from the Sinking Fund and to pay all interest to become due thereon prior to such retirement, or if provision for such payment has been made.

All of such payments required to be made into the Sinking Fund shall be made in equal monthly installments on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday, then such payments shall be made on the next succeeding secular day. Sinking Fund from the Net Revenues of the Utility as soon as available, and the same shall be in addition to the amount otherwise required to be so set apart and paid into the Sinking Fund.

B. Reserve Fund. The provisions in and by the Outstanding Bond Resolutions, whereby there has been created and is to be maintained a Debt Service Reserve Fund (hereinafter referred to as the "Outstanding Bonds Reserve Fund"), are hereby confirmed and inure to the benefit of the holders of the Outstanding Bonds, and the City shall continue to deposit such portion of the amounts into the Outstanding Bonds Reserve Fund as required by the Outstanding Bonds Resolution. Neither the Bonds, nor any owner of the Bonds, shall have a claim on the Outstanding Bonds Reserve Fund so long as the Outstanding Bonds remain outstanding.

There is hereby created, and shall be maintained, a special fund to be known and designated as the "Series 2019 Reserve Fund" (and, together with the Outstanding Bonds Reserve Fund, the "Reserve Funds"), and the minimum amount required to remain on deposit in the Series 2019 Reserve Fund shall be and remain at \$167,452.50 (the "Required Reserve Fund Balance"). The Required Reserve Fund Balance allocable to the Bonds is equal, as of the date of calculation, to the least of (i) ten percent of the principal amount of the Bonds, (ii) the maximum

amount of principal and interest payable on the Bonds in the current or any future fiscal year, or (iii) 125% of the average debt service on the Bonds. Unless otherwise satisfied in adherence to the terms of the next succeeding paragraph, whenever the sum on deposit in the Series 2019 Reserve Fund has been reduced to less than the Required Reserve Fund Balance by the expenditure of all or a portion of such funds in order to prevent or remedy a deficiency in the Sinking Fund, there shall be deposited into the Series 2019 Reserve Fund in each month an amount equal to twenty-five percent (25%) of the amount required by this Resolution to be deposited into the Sinking Fund in such month. Such payments shall continue until such time as the sum on deposit in the Series 2019 Reserve Fund shall be at least equal to the Required Reserve Fund Balance.

In lieu of maintaining and depositing moneys in the Series 2019 Reserve Fund, the Issuer may hold in deposit in the Series 2019 Reserve Fund a letter of credit issued by a domestic or foreign bank or a debt service reserve fund insurance policy issued by a bond insurance company, in an amount equal to the Required Reserve Fund Balance, such bank or bond insurance company, as the case may be, having a credit rating at the time of such delivery in one of the two highest rating categories by Moody's or S&P.

All money credited to the Series 2019 Reserve Fund shall be used and is hereby pledged for the payment of the principal of and interest on the Bonds, and Parity Obligations which are secured by the Series 2019 Reserve Fund whenever for any reason the funds on deposit in the Sinking Fund are insufficient to pay such principal and interest when due. If and to whatever extent Parity Obligations shall be issued under the conditions set forth in this resolution, provision shall be made to create and maintain a reasonable reserve therefor, if so required by the purchaser of such Parity Obligations at the time of their issuance.

C. Improvement Fund. The provisions in and by the Outstanding Bond Resolutions, whereby there is to be maintained a separate and special fund known as the Improvement Fund providing for a balance of \$100,000 (the "Required Improvement Fund Balance") to be used for the purposes and with the priorities specified in the Outstanding Bond Resolutions and as hereinafter set out, are all hereby ratified and confirmed. The Required Improvement Fund Balance shall remain at \$100,000, and such funds shall be maintained on deposit in the Improvement Fund until such time as all of the Outstanding Bonds and the Bonds have been paid in full, both principal and interest, or provision for such payment has been made. Whenever the sum on deposit in the Improvement Fund has been reduced to less than the Required Improvement Fund Balance by the expenditure of all or a portion of such funds for any of the permitted purposes, monthly payments of \$2,500 shall be deposited into such Improvement Fund from the Net Revenues remaining after first making the required deposits into the Sinking Fund and the Reserve Fund, and after the Reserve Fund contains the Required Reserve Fund Balance, until the sum on deposit in the Improvement Fund has been restored to the Required Improvement Fund Balance. From and after the issuance of the Bonds and throughout the time any of the Bonds, the Outstanding Bonds or any Parity Obligations are outstanding, money on deposit in the Improvement Fund not otherwise specially limited by other provisions contained herein or in Outstanding Bond Resolutions, shall be used solely and only for the following purposes and with the following priorities:

First, if for any reason there exists a deficiency in the required balance in the Sinking Fund and provided sufficient amounts are not available in the Revenue Fund to pay such deficiency, there shall be paid into the Sinking Fund an amount equal to the deficiency from the amounts on deposit in the Improvement Fund.

Second, said money shall be transferred and credited to the Reserve Fund whenever any deficiency may exist in the Reserve Fund.

Third, not exceeding one half (1/2) of the amount required to be paid into the Improvement Fund each month may be pledged, set aside, used and applied to the payment of principal of and interest on subordinate revenue bonds issued to pay the cost of making necessary improvements and extensions to the Utility, provided there has first been procured and filed with the City the written opinion of a reputable consulting engineer employed by the City that the proposed improvements and extensions are required to insure the continued efficient and successful operation of the Utility.

Fourth, to pay for the cost of capital improvements and extensions to the Utility provided, however, that prior to the expenditure no deficiency exists in the amounts required to be paid into the Sinking Fund and the Reserve Fund, and there has first been procured and placed on file with the City the written opinion of a reputable consulting engineer employed by the City that the proposed capital improvements and extensions are required to insure the continued efficient and successful operation of the Utility.

D. Surplus Fund. There shall continue to be maintained a special fund to be known and designated as the Surplus Fund into which there shall be set apart and paid all of the Net Revenues remaining after first making any required payments into the Sinking Fund, the Reserve Fund and the Improvement Fund and after the Reserve Fund and the Improvement Fund each contain the required balances, and. All money credited to the Surplus Fund shall be transferred and credited to the Sinking Fund whenever necessary to prevent or remedy a default in the payment of the principal of or interest on the Bonds, the Outstanding Bonds and any Parity Obligations or shall be transferred and credited to the Reserve Fund whenever any deficiency may exist in the Reserve Fund or shall be transferred and credited to the Improvement Fund whenever any deficiency may exist in the Improvement Fund.

As long as the Sinking Fund, the Reserve Fund and the Improvement Fund have the full amounts required to be deposited therein by this resolution, any balance in the Surplus Fund may be made available to the City as the City Council, or such other duly constituted body as may then be charged with the operation of the Utility, may from time to time direct.

Section 11. All of such payments required to be made into any fund created or to be maintained under the terms of this resolution shall be made in equal monthly installments as hereinbefore provided on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday, then such payments shall be made on the next succeeding secular day, and all money held in any fund created or to be maintained under the terms of this

resolution shall be deposited in lawful depositories of the City or invested in accordance with Chapters 12B and 12C of the Code of Iowa and continuously held and secured as provided by the laws of the State of Iowa relating to the depositing, securing, holding and investing of public funds. All interest received by the City as a result of investments under this section shall be deposited in or transferred to the Sinking Fund and used solely and only for the purposes specified herein for such fund.

Section 12. The City hereby covenants and agrees with the owner or owners of the Bonds, the Outstanding Bonds and any Parity Obligations, or any of them, that may be outstanding from time to time, that it will faithfully and punctually perform all duties with reference to the Utility required and provided by the Constitution and laws of the State of Iowa, that it will segregate the Gross Revenues of the Utility and make application thereof in accordance with the provisions of this resolution and that it will not sell, lease or in any manner dispose of the Utility or any part thereof, including any and all extensions and additions that may be made thereto, until all of the Bonds, the Outstanding Bonds and any Parity Obligations have been paid in full, both principal and interest, or unless and until provision shall have been made for the payment thereof in full, both principal and interest; provided, however, that the City may dispose of any property which in the judgment of the City Council, or the duly constituted body as may then be charged with the operation of the Utility, is no longer useful or profitable in the operation of the Utility nor essential to the continued operation thereof and when the sale thereof will not operate to reduce the revenues to be derived from the operation of the Utility.

Section 13. Upon a breach or default of a term of the Bonds, the Outstanding Bonds or any Parity Obligations and this resolution, a proceeding may be brought in law or in equity by suit, action or mandamus to enforce and compel performance of the duties required under the terms of this resolution and Division V of Chapter 384 of the Code of Iowa or an action may be brought to obtain the appointment of a receiver to take possession of and operate the Utility and to perform the duties required by this resolution and Division V of Chapter 384 of the Code of Iowa.

Section 14. The Bonds, the Outstanding Bonds or any Parity Obligations shall not be entitled to priority or preference one over the other in the application of the Net Revenues of the Utility, regardless of the time or times of the issuance thereof, it being the intention of the City that there shall be no priority among the Bonds, the Outstanding Bonds or Parity Obligations, regardless of the fact that they may have been actually issued and delivered at different times. The City hereby covenants and agrees that so long as any of the Bonds, the Outstanding Bonds or any Parity Obligations are outstanding and unpaid, no other bonds or obligations payable from the Net Revenues of the Utility will be issued except upon the basis of such bonds or obligations being subject to the priority and security for payment of the Bonds, the Outstanding Bonds or any Parity Obligations then outstanding; provided, however, that the City reserves the right and privilege of issuing Parity Obligations in order to pay the cost of improvements and extensions to the Utility or for refunding any bonds or obligations payable from the Net Revenues of the Utility, but only if the officially reported Net Revenues of the Utility for the last preceding fiscal year prior to the issuance of such Parity Obligations (with adjustments as hereinafter provided) were equal to at least 125% of the maximum amount of principal and interest that will become due in any subsequent year during the life of the Bonds for the Bonds, the Outstanding Bonds

and any Parity Obligations then outstanding and the Parity Obligations then proposed to be issued.

The amount of Gross Revenues of the Utility may be adjusted for the purpose of the foregoing computations by an independent consulting engineer or, after the Series 2015 Bonds are no longer outstanding, a municipal financial advisor, in either case, not a regular employee of the City, so as to reflect any revision in the schedule of rates and charges being imposed at the time of the issuance of any such Parity Obligations.

Obligations issued to refund the Bonds, the Outstanding Bonds or any Parity Obligations shall not be subject to the foregoing restrictions, provided the Bonds, the Outstanding Bonds or Parity Obligations being refunded mature within three (3) months of the date of such refunding and no other funds are available to pay such maturing Bonds, the Outstanding Bonds or Parity Obligations, or the issuance of the refunding obligations will not cause an increase in the annual debt service requirements during the life of any of the Bonds, the Outstanding Bonds or any Parity Obligations then outstanding which are not being refunded but otherwise any Parity Obligations shall only be issued subject to the restrictions of this resolution.

Section 15. The City agrees that so long as the Bonds, the Outstanding Bonds or any Parity Obligations remain outstanding, it will maintain insurance for the benefit of the owners of the Bonds, the Outstanding Bonds and any Parity Obligations on the insurable portions of the Utility of a kind and in an amount which usually would be carried by private companies or municipalities engaged in a similar type of business. The City will keep proper books of record and account, separate from all other records and accounts, showing the complete and correct entries of all transactions relating to the Utility, and the owners of the Bonds, the Outstanding Bonds or any Parity Obligations shall have the right at all reasonable times to inspect the Utility and all records, accounts and data of the City relating thereto.

Section 16. The provisions of this resolution shall constitute a contract between the City and the owners of the Bonds, and after the issuance of the Bonds, no change, variation or alteration of any kind of the provisions of this resolution shall be made which will adversely affect the owners of the Bonds until all of the Bonds and the interest thereon shall have been paid in full, except as hereinafter provided.

The owners of a majority in principal amount of the Bonds, the Outstanding Bonds and Parity Obligations at any time outstanding (not including in any case any obligations which may be then held or owned by or for the account of the City, but including such obligations as may be issued for the purpose of refunding any of the Bonds, the Outstanding Bonds or any Parity Obligations if such obligations shall not then be owned by the City) shall have the right from time to time to consent to and approve the adoption by the City Council, or such other duly constituted body as may then be charged with the operation of the Utility, of a resolution or resolutions modifying or amending any of the terms or provisions contained in this resolution; provided, however, that this resolution may not be so modified or amended in such manner as to:

- a. make any change in the maturity or redemption terms of the Bonds, the Outstanding Bonds or any Parity Obligations;

- b. make any change in the rate of interest borne by the Bonds, the Outstanding Bonds or any Parity Obligations;
- c. reduce the amount of the principal payable on any Bonds, Outstanding Bonds or Parity Obligations;
- d. modify the terms of payment of principal of or interest on the Bonds, the Outstanding Bonds or any Parity Obligations, or any of them, or impose any conditions with respect to such payment;
- e. affect the rights of the owners of less than all of the Bonds, the Outstanding Bonds or any Parity Obligations then outstanding; or
- f. reduce the percentage of the principal amount of the Bonds, the Outstanding Bonds or any Parity Obligations, the consent of the owners of which shall be required to effect a further modification.

Whenever the City shall propose to amend or modify this resolution under the provisions of this section, it shall (1) prior to the publication of the notice hereinafter provided for in (2), cause notice of the proposed amendment to be mailed to each of the owners of the Bonds, the Outstanding Bonds and Parity Obligations at the addresses appearing on the registration books of the City and also to the Lender, and (2) cause notice of the proposed amendment to be published one time in a newspaper published and/or having a general circulation in the City of Hawarden, Iowa. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory resolution is on file in the office of the City Clerk.

If the owners of at least a majority in aggregate principal amount of the Bonds, the Outstanding Bonds or any Parity Obligations outstanding at the time of the adoption of such amendatory resolution shall have consented to and approved the adoption thereof as herein provided, no owner of any Bonds, the Outstanding Bonds or Parity Obligations shall have any right or interest to object to the adoption of such amendatory resolution or to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the City from taking any action pursuant to the provisions thereof.

Any consent given by the owners of a Bond, Outstanding Bond or Parity Obligation pursuant to the provisions of this section shall be irrevocable for a period of six (6) months from the date of such consent and shall be conclusive and binding upon all future owners of the same Bond, Outstanding Bond or Parity Obligation during such period. Such consent may be revoked at any time after six (6) months from the date of such consent by the owner who gave such consent or by a successor in title, but such revocation shall not be effective if the owners of a majority in aggregate principal amount of the Bonds, the Outstanding Bonds and Parity Obligations outstanding as in this section defined shall have, prior to the attempted revocation, consented to and approved the amendatory resolution referred to in such revocation.

The fact and date of the execution of any instrument under the provisions of this section may be proved by the certificate of any officer in any jurisdiction who by the laws thereof is authorized to take acknowledgments of deeds within such jurisdiction, that the persons signing

such instrument acknowledged before him the execution thereof, or may be proved by an affidavit of a witness to such execution sworn to before such officer.

Section 17. It is the intention of the City that interest on the Bonds be and remain excluded from gross income for federal income tax purposes pursuant to the appropriate provisions of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations in effect with respect thereto (all of the foregoing herein referred to as the "Internal Revenue Code"). In furtherance thereof the City covenants to comply with the provisions of the Internal Revenue Code as they may from time to time be in effect or amended and further covenants to comply with applicable future laws, regulations, published rulings and court decisions as may be necessary to insure that the interest on the Bonds will remain excluded from gross income for federal income tax purposes. Any and all of the officers of the City are hereby authorized and directed to take any and all actions as may be necessary to comply with the covenants herein contained.

The City hereby designates the Bonds as "Qualified Tax Exempt Obligations" as that term is used in Section 265(b)(3)(B) of the Internal Revenue Code.

Section 18. The Securities and Exchange Commission (the "SEC") has promulgated certain amendments to Rule 15c2-12 under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule") that make it unlawful for an underwriter to participate in the primary offering of municipal securities in a principal amount of \$1,000,000 or more unless, before submitting a bid or entering into a purchase contract for such securities, an underwriter has reasonably determined that the issuer or an obligated person has undertaken in writing for the benefit of the holders of such securities to provide certain disclosure information to prescribed information repositories on a continuing basis so long as such securities are outstanding.

On the date of issuance and delivery of the Bonds, the City will execute and deliver a Continuing Disclosure Certificate pursuant to which the City will undertake to comply with the Rule. The City covenants and agrees that it will comply with and carry out the provisions of the Continuing Disclosure Certificate. Any and all of the officers of the City are hereby authorized and directed to take any and all actions as may be necessary to comply with the Rule and the Continuing Disclosure Certificate.

Section 19. Provisions Related to Bond Insurance. The following provisions shall govern, notwithstanding anything to the contrary set forth in this resolution.

1) Notice and Other Information to be given to BAM. The Issuer will provide BAM with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Agreement and (ii) to the holders of Insured Obligations or the Trustee under the Security Documents.

The notice address of BAM is: Build America Mutual Assurance Company, 200 Liberty Street, 27th Floor, New York, NY 10281, Attention: Surveillance, Re: Policy No. _____, Telephone: (212) 235-2500, Telecopier: (212) 235-1542, Email: notices@buildamerica.com. In each case in which notice or other communication refers to an event of default or a claim on the Policy, then a copy of such notice or other communication shall also be sent to the attention

of the General Counsel at the same address and at claims@buildamerica.com or at Telecopier: (212) 235-5214 and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

2) Defeasance. The investments in the defeasance escrow relating to Insured Obligations shall be limited to non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, or as otherwise maybe authorized under State law and approved by BAM.

At least (three) 3 Business Days prior to any defeasance with respect to the Insured Obligations, the Issuer shall deliver to BAM draft copies of an escrow agreement, an opinion of bond counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Insured Obligations, a verification report (a "Verification Report") prepared by a nationally recognized independent financial analyst or firm of certified public accountants regarding the sufficiency of the escrow fund. Such opinion and Verification Report shall be addressed to BAM and shall be in form and substance satisfactory to BAM. In addition, the escrow agreement shall provide that:

a) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a Verification Report, an opinion of bond counsel that such substitution will not adversely affect the exclusion (if interest on the Insured Obligations is excludable) from gross income of the holders of the Insured Obligations of the interest on the Insured Obligations for federal income tax purposes and the prior written consent of BAM, which consent will not be unreasonably withheld.

b) The Issuer will not exercise any prior optional redemption of Insured Obligations secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding bonds, and (ii) as a condition to any such redemption there shall be provided to BAM a Verification Report as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following any such redemption.

c) The Issuer shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of BAM.

3) Trustee and Paying Agent.

a) BAM shall receive prior written notice of any name change of the trustee (the "Trustee") or, if applicable, the paying agent (the "Paying Agent") for the Insured Obligations or the resignation or removal of the Trustee or, if applicable, the Paying Agent. Any Trustee must be (A) a national banking association that is supervised by the Office of the Comptroller of the Currency and has at least \$250 million of assets, (B) a state-chartered commercial bank that is a member of the Federal Reserve System and has at least \$1 billion of assets, or (C) otherwise approved by BAM in writing.

b) No removal, resignation or termination of the Trustee or, if applicable, the Paying Agent shall take effect until a successor, meeting the requirements above or acceptable to BAM, shall be qualified and appointed.

4) Amendments, Supplements and Consents. BAM's prior written consent is required for all amendments and supplements to the Security Documents, with the exceptions noted below. The Issuer shall send copies of any such amendments or supplements to BAM and the rating agencies which have assigned a rating to the Insured Obligations.

a) *Consent of BAM.* Any amendments or supplements to the Security Documents shall require the prior written consent of BAM with the exception of amendments or supplements:

i. To cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in the transaction documents or in any supplement thereto, or

ii. To grant or confer upon the holders of the Insured Obligations any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the holders of the Insured Obligations, or

iii. To add to the conditions, limitations and restrictions on the issuance of bonds or other obligations under the provisions of the Security Documents other conditions, limitations and restrictions thereafter to be observed, or

iv. To add to the covenants and agreements of the Issuer in the Security Documents other covenants and agreements thereafter to be observed by the Issuer or to surrender any right or power therein reserved to or conferred upon the Issuer.

v. To issue additional parity debt in accordance with the requirements set forth in the Security Documents (unless otherwise specified herein).

b) *Consent of BAM in Addition to Bondholder Consent.* Any amendment, supplement, modification to, or waiver of, any of the Security Documents that requires the consent of holders of the Insured Obligations or adversely affects the rights or interests of BAM shall be subject to the prior written consent of BAM.

c) *Insolvency.* Any reorganization or liquidation plan with respect to the Issuer must be acceptable to BAM. The Trustee and each owner of the Insured Obligations hereby appoint BAM as their agent and attorney-in-fact with respect to the Insured Obligations and agree that BAM may at any time during the continuation of any proceeding by or against the Issuer under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding") direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a "Claim"), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Trustee and each owner of the Insured Obligations delegate and assign to BAM, to the fullest extent permitted by law, the rights of the Trustee and

each owner of the Insured Obligations with respect to the Insured Obligations in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

d) *Control by BAM Upon Default.* Anything in the Security Documents to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, BAM shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Insured Obligations or the Trustee or Paying Agent for the benefit of the holders of the Insured Obligations under any Security Document. No default or event of default may be waived without BAM's written consent.

e) *BAM as Owner.* Upon the occurrence and continuance of a default or an event of default, BAM shall be deemed to be the sole owner of the Insured Obligations for all purposes under the Security Documents, including, without limitations, for purposes of exercising remedies and approving amendments.

f) *Consent of BAM for acceleration.* BAM's prior written consent is required as a condition precedent to and in all instances of acceleration.

g) *Grace Period for Payment Defaults.* No grace period shall be permitted for payment defaults on the Insured Obligations. No grace period for a covenant default shall exceed 30 days without the prior written consent of BAM.

h) *Special Provisions for Insurer Default.* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in paragraphs 4(a)-(e) above to the contrary, (1) if at any time prior to or following an Insurer Default, BAM has made payment under the Policy, to the extent of such payment BAM shall be treated like any other holder of the Insured Obligations for all purposes, including giving of consents, and (2) if BAM has not made any payment under the Policy, BAM shall have no further consent rights until the particular Insurer Default is no longer continuing or BAM makes a payment under the Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph, "Insurer Default" means: (A) BAM has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) BAM shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of BAM (including without limitation under the New York Insurance Law).

5) Loan/Lease/Financing Agreement.

a) The security for the Insured Obligations shall include a pledge and assignment of any agreement with any underlying obligor that is a source of payment for the Insured Obligations (a "Financing Agreement") and a default under any Financing Agreement shall constitute an Event of Default under the Security Documents. In accordance with the foregoing, any such Financing Agreement is hereby pledged and assigned to the Trustee for the benefit of the holders of the Insured Obligations.

b) Any payments by the Obligor under the Financing Agreement that will be applied to the payment of debt service on the Insured Obligations shall be made directly to the Trustee at least fifteen (15) days prior to each debt service payment date for the Insured Obligations.

6) BAM As Third Party Beneficiary. BAM is recognized as and shall be deemed to be a third party beneficiary of the Security Documents and may enforce the provisions of the Security Documents as if it were a party thereto.

7) Payment Procedure Under the Policy.

In the event that principal and/or interest due on the Insured Obligations shall be paid by BAM pursuant to the Policy, the Insured Obligations shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the Issuer to the registered owners shall continue to exist and shall run to the benefit of BAM, and BAM shall be subrogated to the rights of such registered owners.

In the event that on the second (2nd) business day prior to any payment date on the Insured Obligations, the Paying Agent or Trustee has not received sufficient moneys to pay all principal of and interest on the Insured Obligations due on such payment date, the Paying Agent or Trustee shall immediately notify BAM or its designee on the same business day by telephone or electronic mail, of the amount of the deficiency. If any deficiency is made up in whole or in part prior to or on the payment date, the Paying Agent or Trustee shall so notify BAM or its designee.

In addition, if the Paying Agent or Trustee has notice that any holder of the Insured Obligations has been required to disgorge payments of principal of or interest on the Insured Obligations pursuant to a final, non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such holder within the meaning of any applicable bankruptcy law, then the Paying Agent or Trustee shall notify BAM or its designee of such fact by telephone or electronic mail, or by overnight or other delivery service as to which a delivery receipt is signed by a person authorized to accept delivery on behalf of BAM.

The Paying Agent or Trustee shall irrevocably be designated, appointed, directed and authorized to act as attorney-in-fact for holders of the Insured Obligations as follows:

a) If there is a deficiency in amounts required to pay interest and/or principal on the Insured Obligations, the Paying Agent or Trustee shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holders of the Insured Obligations in any legal proceeding related to the payment and assignment to BAM of the claims for interest on the Insured Obligations, (ii) receive as designee of the

respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment from BAM with respect to the claims for interest so assigned, (iii) segregate all such payments in a separate account (the "BAM Policy Payment Account") to only be used to make scheduled payments of principal of and interest on the Insured Obligation, and (iv) disburse the same to such respective holders; and

b) If there is a deficiency in amounts required to pay principal of the Insured Obligations, the Paying Agent or Trustee shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holder of the Insured Obligations in any legal proceeding related to the payment of such principal and an assignment to BAM of the Insured Obligations surrendered to BAM, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment therefore from BAM, (iii) segregate all such payments in the BAM Policy Payment Account to only be used to make scheduled payments of principal of and interest on the Insured Obligation, and (iv) disburse the same to such holders.

The Trustee shall designate any portion of payment of principal on Insured Obligations paid by BAM, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Insured Obligations registered to the then current holder, whether DTC or its nominee or otherwise, and shall issue a replacement Insured Obligation to BAM, registered in the name directed by BAM, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Trustee's failure to so designate any payment or issue any replacement Insured Obligation shall have no effect on the amount of principal or interest payable by the Issuer on any Insured Obligation or the subrogation or assignment rights of BAM.

Payments with respect to claims for interest on and principal of Insured Obligations disbursed by the Paying Agent or Trustee from proceeds of the Policy shall not be considered to discharge the obligation of the Issuer with respect to such Insured Obligations, and BAM shall become the owner of such unpaid Insured Obligations and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise. The Security Documents shall not be discharged or terminated unless all amounts due or to become due to BAM have been paid in full or duly provided for.

Irrespective of whether any such assignment is executed and delivered, the Issuer, and the Paying Agent and Trustee agree for the benefit of BAM that:

a) They recognize that to the extent BAM makes payments directly or indirectly (e.g., by paying through the Paying Agent or Trustee), on account of principal of or interest on the Insured Obligations, BAM will be subrogated to the rights of such holders to receive the amount of such principal and interest from the Issuer, with interest thereon, as provided and solely from the sources stated in the Security Documents and the Insured Obligations; and

b) They will accordingly pay to BAM the amount of such principal and interest, with interest thereon as provided in the transaction documents and the Insured Obligations, but only from the sources and in the manner provided therein for the payment of principal of and interest

on the Insured Obligations to holders, and will otherwise treat BAM as the owner of such rights to the amount of such principal and interest.

8) Additional Payments. The Issuer agrees unconditionally that it will pay or reimburse BAM on demand any and all reasonable charges, fees, costs, losses, liabilities and expenses that BAM may pay or incur, including, but not limited to, fees and expenses of BAM's agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Security Documents ("Administrative Costs"). For purposes of the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of BAM spent in connection with the actions described in the preceding sentence. The Issuer agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semi-annually, from the date that payment is first due to BAM until the date BAM is paid in full.

Notwithstanding anything herein to the contrary, the Issuer agrees to pay to BAM (i) a sum equal to the total of all amounts paid by BAM under the Policy ("BAM Policy Payment"); and (ii) interest on such BAM Policy Payments from the date paid by BAM until payment thereof in full by the Issuer, payable to BAM at the Late Payment Rate per annum (collectively, "BAM Reimbursement Amounts") compounded semi-annually. Notwithstanding anything to the contrary, including without limitation the post default application of revenue provisions, BAM Reimbursement Amounts shall be, and the Issuer hereby covenants and agrees that the BAM Reimbursement Amounts are, payable from and secured by a lien on and pledge of the same revenues and other collateral pledged to the Insured Obligations on a parity with debt service due on the Insured Obligations.

9) Debt Service Reserve Fund. The prior written consent of BAM shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Debt Service Reserve Fund, if any. Amounts on deposit in the Debt Service Reserve Fund shall be applied solely to the payment of debt service due on the Insured Obligations.

10) Exercise of Rights by BAM. The rights granted to BAM under the Security Documents to request, consent to or direct any action are rights granted to BAM in consideration of its issuance of the Policy. Any exercise by BAM of such rights is merely an exercise of the BAM's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the holders of the Insured Obligations and such action does not evidence any position of BAM, affirmative or negative, as to whether the consent of the holders of the Insured Obligations or any other person is required in addition to the consent of BAM.

11) BAM shall be entitled to pay principal or interest on the Insured Obligations that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Policy) and any amounts due on the Insured Obligations as a result of acceleration of the maturity thereof in accordance with the Security Documents, whether or not BAM has received a claim upon the Policy.

12) So long as the Insured Obligations are outstanding or any amounts are due and payable to BAM, the Issuer shall not sell, lease, transfer, encumber or otherwise dispose of the Issuer's Municipal Electric Utility System or any material portion thereof, except upon obtaining the prior written consent of BAM.

13) No contract shall be entered into or any action taken by which the rights of BAM or security for or source of payment of the Insured Obligations may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of BAM.

14) If an event of default occurs under any agreement pursuant to which any Obligation of the Issuer has been incurred or issued and that permits the holder of such Obligation or trustee to accelerate the Obligation or otherwise exercise rights or remedies that are adverse to the interest of the holders of the Insured Obligations or BAM, as BAM may determine in its sole discretion, then an event of default shall be deemed to have occurred under this resolution and the related Security Documents for which BAM or the Trustee, at the direction of BAM, shall be entitled to exercise all available remedies under the Security Documents, at law and in equity. For purposes of the foregoing "Obligation" shall mean any bonds, loans, certificates, installment or lease payments or similar obligations that are payable and/or secured on a parity or subordinate basis to the Insured Obligations.

15) Definitions.

"BAM" shall mean Build America Mutual Assurance Company, or any successor thereto.

"Insured Obligations" shall mean the City of Hawarden, Iowa Electric Revenue Bonds, Series 2019.

"Issuer" shall mean the City of Hawarden, Iowa.

"Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in The City of New York, New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 3%, and (ii) the then applicable highest rate of interest on the Insured Obligations and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A., ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as BAM, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to BAM shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

"Policy" shall mean the Municipal Bond Insurance Policy issued by BAM that guarantees the scheduled payment of principal of and interest on the Insured Obligations when due.

“Security Documents” shall mean the resolution, trust agreement, indenture, ordinance, loan agreement, lease agreement, bond, note, certificate and/or any additional or supplemental document executed in connection with the Insured Obligations.

Section 20. Provisions related to Municipal Bond Debt Service Reserve Insurance Policy. The following provisions shall govern, notwithstanding anything to the contrary set forth herein.

- (a) The Issuer shall repay any draws under the Municipal Bond Debt Service Reserve Insurance Policy (the “Reserve Policy”) and pay all related reasonable expenses incurred by BAM (the “Bond Insurer”). Interest shall accrue and be payable on such draws and expenses from the date of payment by the Bond Insurer at the Late Payment Rate. “Late Payment Rate” means the lesser of (A) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in the City of New York, as its prime or base lending rate (“Prime Rate”) (any change in such Prime Rate to be effective on the date such changes are announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Bonds, and (B) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. In the event JPMorgan Chase Bank ceases to announce its Prime Rate publicly, Prime Rate shall be the publicly announced prime or base lending rate of such bank, banking association or trust company bank as the Bond Insurer in its sole and absolute discretion shall specify.

Repayment of draws and payment of expenses and accrued interest thereon at the Late Payment Rate (collectively, the “Policy Costs”) shall commence in the first month following each draw, and each such monthly payment shall be in an amount at least equal to 1/12 of the aggregate of Policy Costs related to such draw.

Amounts in respect of Policy Costs paid to the Bond Insurer shall be credited first to interest due, then to the expenses due and then to principal due. As and to the extent that payments are made to the Bond Insurer on account of principal due, the coverage under the Reserve Policy will be increased by a like amount, subject to the terms of the Reserve Policy.

All cash and investments in the Debt Service Reserve Fund established for the Bonds shall be transferred to the Debt Service Fund for payment of the debt service on the Bonds before any drawing may be made on the Reserve Policy or any other Reserve Fund Credit Instrument in lieu of cash.

Payment of any Policy Cost shall be made prior to replenishment of any cash amounts. Draws on all Reserve Fund Credit Instruments (including the Reserve Policy) on which there is available coverage shall be made on a pro-rata basis (calculated by reference to the coverage then available thereunder) after applying all available cash and investments in the Debt Service Reserve Fund. Payment of

Policy Costs and reimbursement of amounts with respect to other Reserve Fund Credit Instruments shall be made on a pro-rata basis prior to replenishment of any cash drawn from the Debt Service Reserve Fund. For the avoidance of doubt, "available coverage" means the coverage then available for disbursement pursuant to the terms of the applicable alternative credit instrument without regard to the legal or financial ability or willingness of the provider of such instrument to honor a claim or draw thereon or the failure of such provider to honor any such claim or draw.

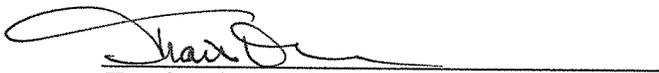
- (b) Draws under the Reserve Policy may only be used to make payments on Bonds insured by the Bond Insurer.
- (c) If the Issuer shall fail to pay any Policy Costs in accordance with the requirements of paragraph (a) above, the Bond Insurer shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided under this Indenture other than (i) acceleration of the maturity of the Bonds, or (ii) remedies which would adversely affect owners of the Bonds.
- (d) This Indenture shall not be discharged until all Policy Costs owing to the Bond Insurer shall have been paid in full. The Issuer's obligation to pay such amount shall expressly survive payment in full of the Bonds.
- (e) The Trustee shall ascertain the necessity for a claim upon the Reserve Policy in accordance with the provisions of paragraph (a) hereof and provide notice to the Bond Insurer at least three business days prior to each date upon which interest or principal is due on the Bonds.
- (f) The Reserve Policy shall expire on the earlier of the date the Bonds are no longer outstanding and the final maturity date of the Bonds.
- (g) Policy Costs due and owing shall be included in debt service requirements for purposes of calculation of the additional bonds test and the rate covenant in the Authorizing Document [*Loan Agreement*].

Section 21. If any section, paragraph, clause or provision of this resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

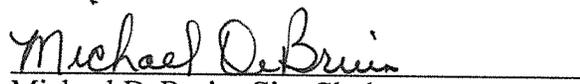
Section 22. All resolutions and orders or parts thereof in conflict with the provisions of this resolution are, to the extent of such conflict, hereby repealed.

Section 23. This resolution shall be in full force and effect immediately upon its adoption and approval, as provided by law.

Passed and approved August 28, 2019.


Travis Olson, Mayor Pro-Tem

Attest:


Michael DeBruin, City Clerk

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On motion and vote, the meeting adjourned.


Travis Olson, Mayor Pro-Tem

Attest:


Michael DeBruin, City Clerk

STATE OF IOWA
COUNTY OF SIOUX
CITY OF HAWARDEN

SS:

I, the undersigned, do hereby certify that I have in my possession or have access to the complete corporate records of the City and of its City Council and officers and that I have carefully compared the transcript hereto attached with the aforesaid corporate records and that the transcript hereto attached is a true, correct and complete copy of all the corporate records in relation to the authorization and approval of a certain Loan Agreement and the issuance of \$2,340,000 Electric Revenue Bonds, Series 2019 of said City evidencing the City's obligation under the Loan Agreement and that the transcript hereto attached contains a true, correct and complete statement of all the measures adopted and proceedings, acts and things had, done and performed up to the present time with respect thereto.

I further certify that no objections were filed in my office and no objections of any kind were made to the matter of entering into such Loan Agreement or issuing such Bonds at the time and place set for hearing thereon and that no petition of protest or objections of any kind have been filed or made, nor has any appeal been taken to the District Court from the decision of the City Council to enter into the Loan Agreement or to issue the Bonds.

WITNESS MY HAND this 29 day of August, 2019.

Michael DeBruin
City Clerk

STATE OF IOWA
COUNTY OF SIOUX
CITY OF HAWARDEN

SS:

I, the undersigned, City Clerk of the City of Hawarden, do hereby certify that the City did heretofore establish a Municipal Electric Utility System (hereinafter referred to as the "Utility"), that the management and control of the Utility are vested in the City Council of the City, and that no board of trustees exists which has any part of the control and management of such Utility.

I further certify that there is not pending or threatened any question or litigation whatsoever touching the establishment, improvement or operation of such Utility and that there are no bonds or other obligations of any kind now outstanding which are payable from or constitute a lien upon the revenues derived from the operation of such Utility, except for the City's Electric Revenue Bonds, Series 2015, dated May 5, 2015; Electric Revenue Refunding Bonds, Series 2016, dated October 27, 2016; and the Bonds currently being issued by the City.

WITNESS MY HAND this 29 day of August, 2019.

Michael DeBreen
City Clerk

