

ORDINANCE NO. 374

AN ORDINANCE OF THE CITY OF IDAHO CITY, IDAHO, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A WATER REVENUE BOND, SERIES 2023, IN THE PRINCIPAL AMOUNT OF \$2,400,000, FOR THE PURPOSE OF FINANCING THE ACQUISITION OF IMPROVEMENTS TO THE DOMESTIC WATER SYSTEM OF THE CITY; DESCRIBING THE BOND; PROVIDING FOR THE COLLECTION AND DISPOSITION OF REVENUES; PROVIDING FOR THE PAYMENT OF THE BOND; ESTABLISHING FUNDS AND ACCOUNTS; PROVIDING COVENANTS RELATING TO THE BOND; PROVIDING FOR THE SALE OF THE BOND TO THE STATE OF IDAHO, DEPARTMENT OF ENVIRONMENTAL QUALITY; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Idaho City, Boise County, Idaho (the "City"), is a municipal corporation organized and operating under the laws of the State of Idaho; and

WHEREAS, the City owns, operates, and maintains a domestic water supply and distribution system; and

WHEREAS, the City is authorized by the Constitution and laws of Idaho to issue revenue bonds to finance all or part of the cost of acquisition, construction, and installation of improvements and betterments to the domestic water system of the City; and

WHEREAS, the City Council (the "Council") of the City, by adoption of Ordinance No. 331 on June 9, 2010, ordered a special bond election to be held within the City on August 3, 2010, for the submission to the qualified electors of the City the question of whether or not the City should be authorized to issue its revenue bonds in a principal amount not to exceed \$2,400,000 in order to provide funds for certain capital improvements to its domestic water system; and

WHEREAS, the requisite majority of the qualified electors of the City, at the special bond election of August 3, 2010, authorized the incurring of indebtedness and the issuance of revenue bonds in a principal amount not to exceed \$2,400,000; and

WHEREAS, the Council has determined that the public health, safety, and welfare will be furthered by the sewer improvement project described hereinafter and has further determined to issue water revenue bonds of the City, duly authorized by the electors of the City at the special bond election of August 3, 2010, subordinate to the lien of, and with the consent of the owner of, its outstanding revenue bonds;

WHEREAS, Section 50-1036, Idaho Code, authorizes the sale of revenue bonds at private sale in such manner as the Council may determine; and

WHEREAS, the State of Idaho, Department of Health and Welfare, Division of Environmental Quality (the "State"), has offered to purchase the revenue bonds of the City, and

the Council has determined to issue its water revenue obligations to the State in the form of a single, amortized subordinate lien revenue bond in an aggregate principal amount of \$2,400,000.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO CITY, IDAHO, as follows:

**Section 1: DEFINITIONS**

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

**Acquisition** or **Acquire** includes the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the Federal Government, the State, any public body therein or any person or entity, the condemnation, transfer, option to purchase, other contract, or other acquirement, or any combination thereof.

**Additional Bonds** means any bonds issued pursuant to Section 15 of this Ordinance.

**Bond** means the "City of Idaho City Subordinate Lien Water Revenue Bond, Series 2023," herein authorized to be issued, sold, and delivered in the form of a single, fully registered, amortized revenue bond in the principal amount of \$2,400,000.

**Bond Fund** means the "City of Idaho City Water Revenue Bond Fund" created by Section 12 of this Ordinance.

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

**Capital Improvement Fund** means the "City of Idaho City Water Project Capital Improvement Fund" created by Section 10 of this Ordinance.

**City** means the City of Idaho City, Boise 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.

**Cost of Project** or any phrase of similar import, means all or any part designated by the Council of the costs of the Project, or interest therein, which costs, at the option of the Council, may include all or any part of the incidental costs pertaining to the Project, including, without limitation:

(1) Preliminary expenses advanced by the City from funds available for the use therefor, or advanced by the Federal Government, or from any other source, with approval of the Council, or any combination thereof;

(2) The costs of making surveys, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;

(3) The costs of appraising, printing, estimates, advice, services of engineers, architects, financial consultants, attorneys at law, clerical help, or other agents or employees;

(4) The costs of contingencies;

(5) The costs of the issuance of the Bond;

(6) The costs of funding any short-term financing, bond anticipation notes, and other temporary loans pertaining to the Project and of the incidental expenses incurred in connection with such loans;

(7) The costs of any properties, rights, easements, or other interest in properties, or any licenses, privileges, agreements and franchises; and

(8) All other expenses necessary or desirable and pertaining to the Project, as estimated or otherwise ascertained by the Council.

Council means the City Council of the City.

Estimated Net Revenues means, for any year, 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.

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, 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 Bond 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 directly related to the System.

**Ordinance** means this Ordinance No. 374, adopted on April 12, 2023.

**Project** means the water system improvement project described in Section 2 of this Ordinance.

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

**Reserve Fund** means the "City of Idaho City Water Revenue Bond, Series 2023, Debt Service Reserve Fund" created by Section 13 of this Ordinance.

**Revenue Fund** means the "City of Idaho City Water and Sewer Revenue Fund" referred to in Section 11 of this Ordinance.

**Revenue of the System** means all revenues received by the City from its System and may include, at the discretion of the City, moneys derived from one, all, or any combination of revenue sources pertaining to the System, including, without limitation, rates, charges, rents, fees, and any other income derived from the operation or ownership of, the use of services of, or the availability of or services pertaining to, or otherwise derived in connection with, the System or all or any part of any property pertaining to the System.

System, for purposes of this Ordinance, means the domestic water supply and distribution portion of the domestic water and sanitary sewer 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 water 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.

Water Subaccount means the special account created within the Revenue Fund by Section 11 of this Ordinance.

## Section 2: THE PROJECT

A. Project Description. The domestic water improvement project consists of the acquisition, construction, and installation of improvements and betterments to the domestic water portion of the City's domestic water and sanitary sewer System, consisting generally of increased water source capacity, construction of two water reservoirs for increased water storage, replacement of water pipe, and other related improvements and costs of engineering, legal fees, administrative costs, payment of the principal of and interest on bond anticipation notes or other interim financing obligations issued to pay Project costs pending the issuance of the Bond, and all other costs incidental thereto (the "Project").

B. Project Changes. The Council may make changes in the Project prior to or in the course of actual construction, provided such changes are found necessary and desirable by the Council and that such changes do not substantially affect or alter the plans or the cost of the Project.

C. Costs. \$4,200,000 of the cost and expenses of construction and installation of the Project will be paid from the issuance and sale of the Bond, hereinafter defined, authorized to be issued at a special election held within the City on August 3, 2010. Any balance will be realized from other legally available funds of the City.

## Section 3: THE BOND

The Bond, designated "City of Idaho City Subordinate Lien Water Revenue Bond, Series 2023" (the "Bond"), in the aggregate principal amount of \$4,200,000, is hereby authorized to be issued, sold, and delivered pursuant to the Revenue Bond Act of the State of Idaho, the same being Sections 501027 through 501042, Idaho Code, and pursuant to Section 57227 and Title 57, Chapter 9, Idaho Code. The designation of the Bond is hereby authorized to be modified to accurately reflect the year it is delivered.

The Bond shall consist of a single, transferable, amortized revenue bond, substantially in the form annexed hereto as Exhibit "A," shall be issued in fully registered form, shall be dated as of the date of its delivery, and shall bear interest on the unpaid balance at the rate of zero percent (0%) per annum.

The Bond shall be payable in equal semi-annual installments of principal, with the first installment of principal being due six months from the date of delivery of the Bond, and semi-annually thereafter until maturity. The final semi-annual installment may be in such greater or lesser amount as is necessary to fully pay said Bond.

The sale of the Bond to the State of Idaho, Department of Environmental Quality (hereinafter the "Registered Owner"), is hereby authorized and approved.

#### 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

The principal of 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.

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

#### Section 7: PREPAYMENT; DEFEASANCE

A. The City reserves the right, at its option, to prepay, on any principal payment date, the principal amount outstanding on the Bond, in whole or in part. Partial prepayments shall be made in the amount of \$1,000 or multiples thereof. No partial prepayment shall extend or

postpone the due date of any subsequent installment. Prepayments shall be made without penalty. Notice of any intended prepayment shall be mailed by certified mail to the Registered Owner of the Bond at its address appearing on the Bond Register, at least thirty (30) days prior to the prepayment date.

B. 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 or Reserve Fund for the payment of the principal of and interest, if any, on the Bond so provided for, and the Bond and interest, if any, 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 shall no longer be deemed to be outstanding hereunder.

#### Section 8: CHARGES

The City has established, may from time to time revise, and shall maintain and collect water rates and charges for furnishing the services of the System to its customers, which rates and charges are, and shall continue to be, uniform as to all persons or properties which are of the same class, which rates and charges shall be collected from the users thereof.

#### Section 9: PLEDGE OF REVENUES

The Net Revenues of the System are hereby pledged for the payment of the Bond and shall be used and applied in the order of priority provided in Section 11 of this Ordinance.

The City shall establish, revise, maintain, and collect charges sufficient, with other revenues received, after taking into consideration anticipated delinquencies, to provide Net Revenues equal to not less than 1.2 times the average annual debt service on the Bond and any Additional Bonds.

#### Section 10: THE CAPITAL IMPROVEMENT FUND

There is hereby created a special fund and account known as the "City of Idaho City Water Project Capital Improvement Fund" (the "Capital Improvement Fund"), into which shall be deposited all of the proceeds of the sale of the Bond, to be used and applied for the payment of a portion of the cost and expense of the construction and installation of the Project, including the payment of the principal of and interest on any outstanding bond anticipation notes or other interim financing issued for the purpose of paying any part of the Cost of Project. Any interest earnings on moneys invested from the Capital Improvement Fund shall remain in and be used for the purposes of the Capital Improvement Fund. The City's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties will be deposited into said Capital Improvement Fund to assure the completion of the Project.

When the Project has been completed and all costs related thereto have been paid in full, any balance remaining in the Capital Improvement Fund shall be deposited into the Bond Fund described in Section 12 of this Ordinance.

**Section 11: THE REVENUE FUND – WATER SUBACCOUNT**

There has heretofore been created the "City of Idaho City Water and Sewer Revenue Fund" (the "Revenue Fund"), which shall be maintained by the Treasurer. A separate subaccount, designated the "Water Subaccount" or similar designation, is hereby created into which the Revenue of the System shall be deposited immediately upon its receipt.

A. **Use of Revenues.** The Revenue of the System shall be used for the payment of the following obligations in the following order of priority:

(1) **First Charge and Lien:** The costs of Operation and Maintenance Expenses of the System.

(2) **Second Charge and Lien:** Payment of the principal of the Bond and the principal of and interest on any Additional Bonds, or other obligations of the City which are payable from Net Revenues, by payment into the Bond Fund as provided in Section 12 of this Ordinance.

(3) **Third Charge and Lien:** To maintain the Reserve Fund referred to Section 13 of this Ordinance; and

(4) **To administer surplus funds.**

B. **Interest Earnings.** Interest earnings on deposits in the Water Subaccount shall remain in and be used for the purposes of the Water Subaccount.

C. **Surplus Funds.** Funds remaining in the Water Subaccount after having been applied to designated funds for the purposes provided in this section shall constitute surplus funds and may be used for the purposes set forth in Section 14 of this Ordinance.

**Section 12: THE BOND FUND**

There is hereby created the "City of Idaho City Water Revenue Bond Fund" (the "Bond Fund"), which shall be maintained by the Treasurer and into which shall be deposited, from the Net Revenues of the System the following amounts:

A. Each annual installment of principal on the Bond shall be payable into the Bond Fund from the Water Subaccount not less than ten (10) days prior to each payment date, and paid from the Bond Fund to the Registered Owner on or before each payment date. In the event that the single Bond is converted into fully registered serial bonds, as provided in Section 3 of this Ordinance, then there shall be deposited into the Bond Fund from the Revenue Fund on or before



the 10th day prior to any principal payment date the amount of interest or principal then falling due on the Bond. The moneys herein allocated shall be used solely to pay currently maturing installments of principal on the Bond or any serial bonds to which the Bond may be converted.

B. If the City for any reason shall fail to make such deposit, then an amount equal to the deficiency shall be deposited into the Bond Fund from the Reserve Fund, described hereinafter.

#### Section 13: DEBT SERVICE RESERVE FUND

A. Deposits. There is hereby created a special fund designated the "City of Idaho City Water Revenue Bond, Series 2023, Debt Service Reserve Fund" (the "Reserve Fund"), or similar designation, which shall be maintained by the Treasurer so long as the Bond remains outstanding. In addition to the amounts required for the Bond Fund, there shall be deposited into the Reserve Fund, within one year from the date of issuance of the Bond, from Net Revenues, an amount equal to one-tenth (1/10) of \$80,000, and a like sum shall be deposited therein from Net Revenues on each anniversary date of the Bond thereafter, until there has been accumulated in the Reserve Fund an amount equal to \$80,000. The sum so accumulated shall be maintained as a debt service reserve fund for the Bond, or any serial bonds to which the Bond may be converted, until the Bond or serial bonds have been paid in full.

B. Deficiencies or Withdrawals. Whenever any moneys are withdrawn from the Reserve Fund to make required payments on the Bond, or if a deficiency exists therein, the amount so withdrawn or the amount of such deficiency shall be restored by monthly deposits from Net Revenues until there has been restored therein the gross amount provided heretofore in subdivision A of this Section.

C. Refunding. In the event refunding bonds are ever issued, the amount set aside into the Reserve Fund to secure the payment of the Bond may be used to retire bonds or may be held in the Reserve Fund to secure payment of the refunding bonds issued, to refund the outstanding refunding bonds, or may be held in the Reserve Fund to secure the payment of any other issue or series of bonds payable out of the Bond Fund and issued on a parity with the Bond.

D. Investments. All moneys in the Reserve Fund may be kept in cash or deposited in institutions permitted by law in an amount in each institution not greater than the amount insured by any department or agency of the United States Government or may be invested and reinvested in any legal investment permitted for City moneys maturing not later than the last maturity date of any outstanding bonds. Interest earned on any such investment shall be deposited, directly as earned, into the Bond Fund.

#### Section 14: SURPLUS FUNDS

Funds remaining in the Revenue Fund after having been applied to or designated funds for the purposes provided in Section 11A of this Ordinance shall constitute surplus funds and may be used for any of the following purposes:

- A. To pay the costs of unusual or extraordinary maintenance of or repair to the System;
- B. To pay the principal of and interest, if any, on any subordinate lien obligations which may have been issued to provide water facilities in or for the City;
- C. To improve, extend, enlarge, or replace any water facilities;
- D. To acquire or construct additional water facilities in or for the City;
- E. To call or redeem prior to their fixed dates of maturity any bond, parity bonds, or subordinate lien obligations issued to provide water facilities for the City; and
- F. For any other lawful purpose directly related to the System.

**Section 15: ADDITIONAL BONDS OR OTHER OBLIGATIONS**

A. Limitation Upon Issuance of Parity Obligations. Nothing contained in this Ordinance shall be construed in such a manner as to prevent the issuance by the City of Additional Bonds or other additional obligations payable from the Net Revenues on a parity with, but neither prior nor superior to, the lien of the Bond herein authorized; provided, however, that before any such Additional Bonds or other additional parity obligations are authorized or actually issued:

(1) The City is not, and has not been, in default as to any payments required by the provisions of this Ordinance for a period of not less than twelve (12) months immediately preceding the issuance of such Additional Bonds or other additional parity obligations.

(2) The Net Revenues of the System for the past twelve (12) consecutive months immediately preceding the year of the issuance of such Additional Bonds shall have been sufficient to pay the Operation and Maintenance Expenses of the System for said past twelve (12) months, and, in addition, sufficient so that the Net Revenues for such preceding year equal an amount representing at least 120% of the annual principal and interest requirements of the outstanding Bond and any Additional Bonds.

(3) The Estimated Net Revenues of the System for the twelve-month period immediately succeeding the issuance of the bonds or other obligations proposed to be issued will be not less than 120% of the annual payment requirements of the Bond, plus the average annual principal and interest requirements of the Additional Bonds or other obligations proposed to be issued.

(4) A written certification by the City engineer or an independent engineer, or independent certified public accountant, if requested, that the 120% Net Revenue requirement of subsection (3) above, and the 120% Estimated Net Revenues requirement of subsection (4) above, have been satisfied, shall be obtained and filed with the City,

which certification shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell, and deliver said Additional Bonds or other additional obligations on a parity with the Bond authorized herein.

(5) The foregoing limitations, or any of them, may be waived or modified by the written consent of the Registered Owner of not less than 75% of the principal amount of the Bond then outstanding.

B. Parity Bonds to Complete Project. In the event grant funds, plus the proceeds of the Bond provided for in this Ordinance, are insufficient to complete the Project, then parity bonds or other obligations may be issued to complete the Project, and the restrictions set forth in this Section pertaining to the issuance of bonds on parity of lien with the Bond shall not apply.

C. Subordinate Lien Bonds. No provision of this Ordinance shall be deemed to limit or restrict the power of the City to issue bonds, notes or warrants, or to make pledges of the revenues which shall be subordinate as to the lien of the Bond and which shall provide for compliance with the current provisions hereof prior to the application of any funds to said subordinate purpose.

D. Refunding. The restrictions with respect to the issuance of parity obligations with respect to the Bond shall not apply if such additional parity bonds proposed to be issued are for the sole purpose of refunding outstanding water or water and sewer revenue bonds.

#### Section 16: INVESTMENTS

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

#### Section 17: 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. Complete Project. It will complete the construction of the Project with all practical dispatch and in a sound and economical manner.

B. 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.

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

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

E. 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.

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

G. 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. 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.

M. Delinquencies. It will not furnish water 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 18: 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 it 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 be 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, if any, is not and will not become includable in the gross income of the owner(s) 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 be 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. 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 1.1502 of the Treasury Regulations.

**Section 19: SALE OF BOND**

The sale of the Bond to the State of Idaho, Department of Environmental Quality, is hereby authorized and approved.

**Section 20: 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 21: VALIDITY OF ISSUANCE

The Bond is issued pursuant to the Idaho Revenue Bond Act, being Idaho Code Sections 501027 through 501042. This recital is conclusive evidence of the validity of the Bond and the regularity of its issuance.

#### Section 22: REGISTERED OWNER'S REMEDIES RECEIVER

By action or suit in equity, the Registered Owner or subsequent owners 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.

#### Section 23: 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 24: 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 25: REPEALER**

All prior 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 26: 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, all such additional documents as may be necessary to effect the sale and delivery of the Bond.

**Section 27: PUBLICATION**

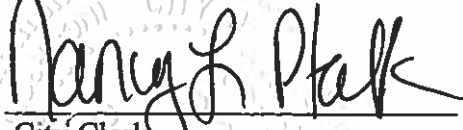
This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon passage, approval, and publication.

DATED this 12<sup>th</sup> day of April, 2023.

CITY OF IDAHO CITY  
Boise County, Idaho

By   
Mayor

ATTEST:

  
City Clerk

(SEAL)



[Form of Bond]

UNITED STATES OF AMERICA

Registered  
No. One

Registered  
\$2,400,000

STATE OF IDAHO

COUNTY OF BOISE

CITY OF IDAHO CITY  
WATER REVENUE BOND, SERIES 2023

THE CITY OF IDAHO CITY, Boise County, Idaho (the "City"), for value received, promises to pay from the special fund hereinafter described and in the manner hereinafter set forth, and not otherwise, to the STATE OF IDAHO, as the registered owner hereof, the principal sum of

**TWO MILLION FOUR HUNDRED THOUSAND DOLLARS**

(\$2,400,000.00). This Bond shall not bear interest on the unpaid balance. Said principal shall be paid in equal semi-annual installments, with the first installment of principal being due on October 15, 2023, and semi-annually on each April 15 and October 15 thereafter until maturity, with all principal of the Bond being fully paid within thirty (30) years from its date. The final semi-annual installment may be in such greater or lesser amount as is necessary fully to pay the Bond.

This Bond shall be registered in the name of the original owner and any subsequent owners in a registration book in the office of the City Treasurer, who shall be the Bond Registrar. This Bond is transferable only upon said book, by notation thereon, by the registered owner hereof in person or by its attorney duly authorized in writing.

The principal of this Bond shall be payable in lawful money of the United States of America, to the registered owner. Any owner of this Bond subsequent to its original owner is

hereby placed on notice of all payment of both principal of this Bond prior to its transfer to him and all subsequent owners hereof hereby acknowledge that they have ascertained the actual unpaid principal amount of this Bond as of the date of transfer to them and hereby release the City from all obligations as to all principal paid by the City prior to such date.

The City has reserved the right, at its option, to prepay the principal amount outstanding, in whole or, in the manner hereinafter provided, in part, on any regularly-scheduled semi-annual payment date.

Prepayments shall be made on the date, at the place, and in the manner provided herein for making regularly scheduled installments, and partial prepayments shall be in the amount of \$1,000.00 or multiples thereof. Any such prepayment shall be made without penalty, additional interest, or charges.

Notice of any such intended prepayment shall be mailed by registered mail to the registered owner of the Bond at the address appearing on the registration records of the City, or at such other address as designated in writing to the City by the registered owner, at least thirty (30) days prior to the prepayment date.

This Bond, upon the surrender hereof at the office of the City Treasurer may, at the option of the registered owner and at its expense, be exchanged for serial bonds, without coupons, in registered form, in the aggregate principal amount then remaining unpaid, maturing annually in each of the remaining years of the original term of this Bond, and dated as of the year during which the surrender and exchange is effected. Serial bonds so issued shall be redeemable according to the provisions of Ordinance No. 374 of the City, adopted on April 12, 2023 (the "Bond Ordinance"), pursuant to which this Bond was issued.

This Bond is issued for the purpose of paying a portion of the cost of the construction and installation of improvements and betterments to the City's domestic water system (the "Project"), pursuant to the Idaho Revenue Bond Act (being Idaho Code Sections 50-1027 through 50-1042), and pursuant to Idaho Code, Title 57, Chapters 2 and 9, and also pursuant to the Bond Ordinance and a special election held within the City on August 3, 2010.

This Bond creates a lien and charge upon the Net Revenues of the City's domestic water System (as said capitalized terms are defined in the Bond Ordinance) subordinate to the lien and charge of the Prior Obligations (as defined in the Bond Ordinance) and superior to all other charges of any kind and nature, except the charges necessary to pay the principal of and interest on any future parity bonds. This Bond is a limited obligation of the City and is payable solely from a special fund, designated the City of Idaho City Water Revenue Bond Fund (the "Bond Fund") referred to in the Bond Ordinance. For a more particular description of said Bond Fund, the revenues to be deposited therein, and the nature and extent of the security afforded thereby,

reference is made to the provisions of the Bond Ordinance pursuant to which this Bond is issued, and such Bond Fund will be maintained.

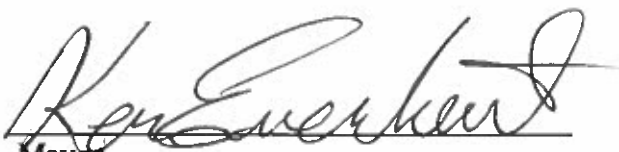
This Bond does not now and shall never constitute an indebtedness of the City within the meaning of any State Constitutional provision or statutory limitation, nor a charge against the general credit or taxing powers of the City.


The City has covenanted with the registered owner of this Bond to keep and perform all covenants and agreements contained in the Bond Ordinance, and the City will establish, maintain, collect, and account for rates and charges for service furnished by or through the System, including all extensions and improvements thereto hereafter constructed or acquired by the City, sufficient to pay the principal of the Bond as the same falls due, provided such rates must be reasonable rates for the type, kind, and character of the services rendered.

IT IS HEREBY CERTIFIED, RECITED, and DECLARED that all conditions, acts, and things essential to the validity of this Bond do exist, have happened, and have been done, and that every requirement of law affecting the issue hereof has been duly complied with; that the Net Revenues to be derived from the operation of the System, including any future improvements, additions, or extensions thereto, have been and are hereby pledged and will be set aside into the Bond Fund in amounts sufficient for the payment of principal of this Bond.

IN WITNESS WHEREOF, the City of Idaho City, Boise County, Idaho, under its corporate seal, has caused this Bond to be signed in its corporate name by its Mayor, countersigned by the Treasurer thereof, and attested by the City Clerk, this 15<sup>th</sup> day of April, 2023.

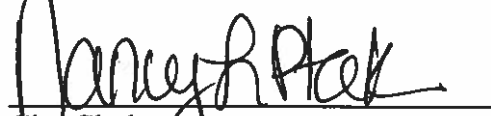
CITY OF IDAHO CITY  
Boise County, Idaho

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Treasurer



ATTEST:

  
\_\_\_\_\_  
City Clerk  
(SEAL)

\* \* \* \* \*

REGISTRATION CERTIFICATE

(No writing to be placed herein except by the Bond Registrar)

This Bond shall be payable only to the order of the registered owner or its legal representative.

<u>Date of Registration</u>	<u>Name and Address of Registered Owner</u>	<u>Signature of Bond Registrar</u>
April 15, 2023	State of Idaho Department of Health and Welfare Division of Environmental Quality 1410 North Hilton Boise, Idaho 83705-1255	

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SUMMARY OF  
ORDINANCE NO. 374

AN ORDINANCE OF THE CITY OF IDAHO CITY, IDAHO, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A WATER REVENUE BOND, SERIES 2023, IN THE PRINCIPAL AMOUNT OF \$2,400,000, FOR THE PURPOSE OF FINANCING THE ACQUISITION OF IMPROVEMENTS TO THE DOMESTIC WATER SYSTEM OF THE CITY; DESCRIBING THE BOND; PROVIDING FOR THE COLLECTION AND DISPOSITION OF REVENUES; PROVIDING FOR THE PAYMENT OF THE BOND; ESTABLISHING FUNDS AND ACCOUNTS; PROVIDING COVENANTS RELATING TO THE BOND; PROVIDING FOR THE SALE OF THE BOND TO THE STATE OF IDAHO, DEPARTMENT OF ENVIRONMENTAL QUALITY; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE

A summary of the principal provisions of Ordinance No. 374 of the City of Idaho City, Boise County, Idaho, adopted on April 12, 2023, is as follows:

Section 1: Defines the terms and phrases used in the Ordinance.

Section 2: Describes the water improvement project to be constructed with the proceeds of the Bond authorized by the Ordinance, and states that \$2,400,000 of the cost thereof is to be paid from the sale of the Bond of the City described in Section 3 and authorized at a special election held on August 3, 2010, and the balance of which is to be paid from other lawfully available funds of the City.

Section 3: Describes the City of Idaho City Subordinate Lien Water Revenue Bond, Series 2023 (the "Bond"), and provides for the terms of payment and the maturity of the Bond.

Section 4: Provides for the manner and method of execution of the Bond.

Section 5: Provides for the place and manner of payment of the Bond.

Section 6: Appoints the City Treasurer as Bond Registrar.

Section 7: Provides for the prepayment of the Bond.

Section 8: Provides for water rates and charges.

Section 9: Pledges the Net Revenues of the domestic water System for the payment of the Bond, subordinate to the City's Prior Obligations.

Section 10: Establishes the "City of Idaho City Water Project Capital Improvement Fund."

**Section 11:** Establishes the Water Subaccount within the Water and Sewer Revenue Fund.

**Section 12:** Establishes the City of Idaho City Water Revenue Bond Fund.

**Section 13:** Provides for a Debt Service Reserve Fund.

**Section 14:** Provides for the disposition of surplus funds.

**Section 15:** Establishes the conditions of and limitations on the issuance of additional bonds or other obligations.

**Section 16:** Provides for the investment of surplus funds.

**Section 17:** Provides certain general covenants of the City with the Registered Owner of the Bond.

**Section 18:** Provides certain special covenants of the City with respect to the exclusion of interest, if any, on the Bond from income taxation.

**Section 19:** Provides for the sale of the Bond to the State of Idaho, Department of Environmental Quality.

**Section 20:** Provides for method of amending the Ordinance and adopting supplemental ordinances.

**Section 21:** Recites that the Bond is issued pursuant to the Idaho Revenue Bond Act.

**Section 22:** Provides for remedies of the Registered Owner of the Bond.

**Section 23:** States that the Ordinance constitutes a contract with the Registered Owner of the Bond.

**Section 24:** Provides for severability.

**Section 25:** Repeals prior inconsistent ordinances, to the extent of any inconsistency.

**Section 26:** Authorizes the Mayor, City Clerk, and City Treasurer to execute any additional documents necessary to sell and deliver the Bond.

**Section 27:** Provides for the publication of the Ordinance or a summary thereof and the effective date of the Ordinance.

The full text of Ordinance No. 374 is available at City Hall and will be provided to any

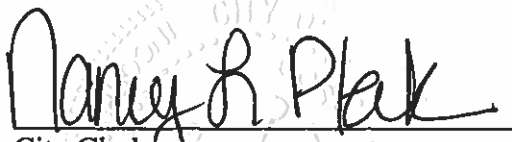
citizen upon personal request during normal office hours.

DATED this 12<sup>th</sup> day of April, 2023.

CITY OF IDAHO CITY  
Boise County, Idaho

  
Mayor

ATTEST:

  
City Clerk



CERTIFICATION OF ATTORNEY

I, the undersigned, an attorney at law duly licensed and practicing in the State of Idaho and serving as special counsel to the City of Idaho City, Boise County, Idaho, hereby certify that I have read the attached summary of Ordinance No. 374 of the City of Idaho City and that the same is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated as of the 12<sup>th</sup> day of April, 2023.

  
Attorney at Law