

ORDINANCE NO.

11-03  
Series of 2011

**TITLE: A BILL FOR AN EMERGENCY ORDINANCE AUTHORIZING THE ISSUANCE OF THE WASTEWATER REVENUE BOND, SERIES 2011; PRESCRIBING THE FORM OF SAID BOND; PROVIDING OTHER DETAILS CONCERNING THE BOND, THE SYSTEM AND FUNDS APPERTAINING THERETO; AND DECLARING AN EMERGENCY.**

WHEREAS, the Town of Hudson, Colorado (the "Town"), is a statutory town and political subdivision of the State of Colorado (the "State"), duly organized and operating under the constitution and laws of the State; and

WHEREAS, the Town does now own, operate and maintain a wastewater system for the Town and its inhabitants (the "System"); and

WHEREAS, pursuant to Ordinance No. 95-20, adopted by the Board on August 23, 1995, the Town has established the "Town of Hudson, Water Activity Enterprise" (the "Enterprise") pursuant to Title 37, Article 45.1, C.R.S. (the "Enterprise Act"); and

WHEREAS, pursuant to Ordinance No. 95-20, the purpose of the Enterprise includes the construction, operation, repair, and replacement of wastewater facilities; and

WHEREAS, the Board of Trustees of the Town (the "Board") has previously issued its Water Activity Enterprise Wastewater Collection and Treatment System Revenue Bond Anticipation Note (the "Note") in the original principal amount of \$3,545,000 pursuant to a an ordinance adopted by the Board on December 1, 2010 (the "Note Ordinance"); and

WHEREAS, United States Department of Agriculture, Rural Development - Rural Utilities Service ("RUS") has agreed to loan (the "RUS Loan") the Town an amount not to exceed \$3,545,000 to refund and discharge the Note and to reimburse the Town for certain expenditures made to benefit the System (collectively, the "Project"); and

WHEREAS, it is the intent and purpose of this ordinance to authorize the issuance of the Wastewater Revenue Bond, Series 2011 (the "Bond") to evidence the RUS Loan; and

WHEREAS, the Board has further determined and hereby further declares that the Town is authorized to issue the Bond to finance the costs of the Project pursuant to the provisions of the Acts (as defined herein) and the Supplemental Act (as defined herein); and

WHEREAS, upon the refunding of the Note, the Town has not pledged the revenues derived or to be derived from the operation of the System for the payment of general obligation bonds or revenue bonds payable from such revenues, or otherwise, with the result that the Net Revenues to be derived from the operation of the System may hereby be pledged lawfully and irrevocably to secure the repayment of the Bond; and

WHEREAS, the Bond shall not be a debt of the Town within the meaning of any State constitutional or statutory limitation, nor shall the Bond be payable out of any funds other than the revenues from the System pledged to the payment thereof; and

WHEREAS, the United States of America, acting by and through RUS has agreed to purchase the Bond, to consist of a single registered bond, as herein authorized.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUDSON, COLORADO, THAT:

Section 1. Short Title. This ordinance may be designated by the short title “2011 Wastewater Bond Ordinance.”

Section 2. Definitions. The defined terms used in this ordinance, except where the context requires otherwise, shall have the following meanings:

(A) “Acts” means: (i) Part 4 of Article 35, Title 31, C.R.S.; and (ii) Article 45.1, Title 37, C.R.S., together, relating to the terms, conditions and details of the Bond herein authorized.

(B) “Board” means the Board of Trustees of the Town or any successor governing body of the Town.

(C) “Bond Fund” means the “Town of Hudson Wastewater Revenue Bond Fund.”

(D) “Bond” or “bond” means the bond herein authorized designated as the “Town of Hudson, Colorado Wastewater Revenue Bond, Series 2011.”

(E) “Consulting Engineer” means any qualified registered or licensed professional engineer practicing under the laws of the State, including any such engineer employed by the Town.

(F) “C.R.S.” means Colorado Revised Statutes, as amended to the date hereof.

(G) “Enterprise” means the Town of Hudson, Water Activity Enterprise

(H) “Enterprise Act” means Title 37, Article 45.1, C.R.S.

(I) “Fiscal Year” means the twelve months commencing January 1 of any year and ending December 31 of said year or any fiscal year which supersedes the Town’s current fiscal year.

(J) “Gross Revenues” or “revenues” means all income and revenues derived by the Town from any rates, fees, tolls, or charges for the services furnished by, or the use of, the System as the same may at any time exist to serve customers within the Division.

(K) “Holder” or “Owner” means RUS.

(L) “Income Fund” means the existing “Town of Hudson Wastewater Fund.”

(M) “Independent Accountant” means any certified public accountant practicing under the laws of the State, who is not an officer or employee of the Town.

(N) “Insured Bank” means a bank qualified to accept public deposits under State law and which is a member of the Federal Deposit Insurance Corporation.

(O) “Net Revenues” means Gross Revenues less Operation and Maintenance Expenses.

(P) “Note” means the Town’s Water Activity Enterprise Wastewater Collection and Treatment System Revenue Bond Anticipation Note

(Q) “Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the Town, paid or accrued, for operating, maintaining, and repairing or providing service through the System, including legal and overhead expenses of the Town directly related to the administration of the System or other Town-owned facilities necessary to provide service through the System, insurance premiums, audits, charges of depository banks and paying agents, professional services, salaries and administrative expenses, labor, and the cost of materials and supplies for current operation, but not including depreciation, legal liabilities not based on contract, the cost of improvements to the System, or charges for the accumulation of reserves.

(R) “Parity Bonds” means additional bonds payable from and constituting a lien upon the Net Revenues on a parity with the lien thereon of the Bond.

(S) “Paying Agent” means the office of the Treasurer of the Town, or any successor thereto.

(T) “Payment Date” means the dates for the payment of principal and interest on the Bond as set forth in the Sale Certificate.

(U) “Project” means the refunding of the Note and the reimbursement of the Town for certain expenditures made to benefit the System.

(V) “Purchaser” means the United States of America, acting by and through RUS.

(W) “Registrar” means the office of the Treasurer of the Town, or any successor thereto.

(X) “Reserve Fund” means the “Town of Hudson Wastewater Revenue Reserve Fund.”

(Y) “Reserve Requirement” means the amount set forth in the Sale Certificate.

(Z) “RUS” means the United States Department of Agriculture, Rural Development - Rural Utilities Service or any successor thereto.

(AA) “RUS Loan” means the loan from RUS to the Town that is evidenced by the Bond.

(BB) “Sale Certificate” means the certificate executed by the Town Administrator of the Town or any member of the Board dated on or before the date of delivery of the Bond, setting forth: the rate of interest on the Bond; the conditions on which the Bond may be redeemed prior to maturity and the redemption price therefor; the existence and amount of any capitalized interest or reserve funds; the price at which the Bond will be sold; the principal amount and denomination of the Bond; the amount or amounts of principal maturing or subject to mandatory sinking fund redemption in any particular year; and the dates on which principal and interest shall be paid, including, the first interest payment date for the Bond; subject to the parameters and restrictions contained in Section 7 of this ordinance.

(CC) “State” means the State of Colorado.

(DD) “Supplemental Act” means the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S.

(EE) “System” or “system” means (i) any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property, relating to the collection, treatment, transmission and disposal of wastewater that is owned, operated or controlled by the Town, including, without limitation, the facilities financed or refinanced by the Project (ii) any renewal, replacement, addition, modification or improvement to (i) above, and (iii) all real or personal property and rights therein and

appurtenances thereto necessary or useful or convenient for the effectiveness of the purposes of the Town in the collection, treatment, transmission and disposal of wastewater.

(FF) “Tax Code” means the Internal Revenue Code of 1986, as amended to the date of issuance of the Bond.

(GG) “Town” means the Town of Hudson, Colorado.

(HH) “Town Administrator” means the Town Administrator of the Town.

Section 3. Bond Sale. Section 11-57-204 of the Supplemental Act provides that a public entity, including the Town, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act. The Board hereby elects to apply all of the Supplemental Act to the Bond.

Pursuant to Section 11-57-205 of the Supplemental Act, the Board hereby delegates to the Town Administrator or any member of the Board, the authority to accept the proposal of the Purchaser to purchase the Bond as well as the authority to make determinations in relation to the Bond contained in the Sale Certificate, subject to the parameters and restrictions contained in Section 7 of this ordinance.

Section 4. Ratification. All consistent action taken previously by the Board and officers of the Town directed toward the Project and toward the issuance of the Bond is ratified, approved and confirmed.

Section 5. Authorization of Project. The Project is authorized at a cost of approximately \$3,545,000 (excluding any costs which will be defrayed from other than proceeds of the Bond) and the necessity thereof is hereby declared. The Town Administrator and the officers and employees of the Town are hereby authorized to take all steps necessary for the refunding of the Note.

Section 6. Authorization of Bond. For the purpose of providing funds to pay the cost of the Project and as requested by RUS, the Town shall, under the authority of the Acts, issue its “Town of Hudson, Colorado, Wastewater Revenue Bond, Series 2011” in anticipation of the collection of Net Revenues of the System. The Bond shall be issued and be payable both as to principal and interest, solely from the Net Revenues of the System, and the Town pledges irrevocably, but not necessarily exclusively, such Net Revenues to the payment of the Bond and the interest thereon.

Section 7. Bond Details. The Bond shall mature, bear interest from its dated date to maturity or prior redemption and be sold as provided in the Sale Certificate, provided that: the maximum net effective interest rate on the Bond shall not exceed 3.25% per annum; the Bond shall mature no later than forty (40) years from its date of issuance; the Bond shall be subject to optional redemption at any time without premium; the purchase price of the Bond shall not be less than 100%; and the aggregate principal amount of the Bond shall not exceed \$3,545,000.

The Bond, except as otherwise provided herein, shall be issued in denominations of \$5,000 or any integral multiple thereof as requested by RUS; provided, however, that no Bond may be in a denomination which exceeds the principal coming due on any maturity date and no individual Bond will be issued for more than one maturity. The Bond shall be dated as of the date of delivery to the Purchaser and shall be numbered in such manner as the Registrar may determine. Interest on the Bond shall accrue on the basis of a 365-day year. Amortized installments of principal and interest shall be paid semiannually on the Payment Dates; except that any Bond which is reissued upon transfer, exchange or other replacement shall bear interest from the most recent Payment Date to which interest has been paid or duly provided for, or if no interest has been paid, from the date of the Bond. Except as otherwise provided herein, every payment on the Bond shall be applied first to interest computed to the Payment Date and then to principal.

Section 8. Payment of Bond; Paying Agent and Registrar.

Semiannual payments of principal of and interest on the Bond (except the final payment) shall be made via direct pay on or before the Payment Date (or, if such Payment Date is not a business day, on or before the next succeeding business day) in the amount and beginning on the date set forth in the Sale Certificate as required by and directed by RUS. The payment of the final installment of principal of and interest on the Bond will be made to RUS only upon presentation and surrender thereof at the Paying Agent. If, upon presentation of the Bond at or after its final maturity, payment is not made as herein provided, interest thereon shall continue to accrue at the same rate per annum until the principal thereof is paid in full. Notwithstanding the foregoing, so long as RUS is the Owner of the Bond, the Town will make payments of principal and interest in the manner reasonably determined by RUS.

The Registrar shall note such payments of principal in the registration records. In the case of any dispute as to the amount of principal paid, the payment records maintained by RUS shall control.

Any such interest not so timely paid shall be payable to RUS on a Special Record Date for the payment of any defaulted interest. Such Special Record Date shall be fixed by the Registrar whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to RUS not less than ten days prior to the Special Record Date by first-class mail to RUS on a date selected by the Registrar, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. The Paying Agent may make payments of interest by such alternative means as may be mutually agreed to between RUS and the Paying Agent. All such payments shall be made in lawful money of the United States of America without deduction for the services of the Paying Agent or the Registrar.

Section 9. Prior Redemption or Prepayment. Installments of principal of the Bond may be subject to prepayment prior to their Payment Date, at the option of the Town, in whole or in part, on any date and in any order selected by the Town at a price equal to the principal amount of the Bond so prepaid plus accrued interest to the prepayment date, without premium.

(a) Redemption Notice. Notice of redemption shall be given by the Town, by mailing a copy of a notice of redemption, first-class postage prepaid mail, at least thirty days prior to the redemption date to RUS at the address for RUS set forth in the records of the Registrar. The notice shall identify the Bond by name and series, specify the redemption date, and state that on such date the principal amount specified and accrued interest to the prepayment date will become due and payable, and thereafter interest shall cease to accrue.

Notwithstanding the provisions of this section, any notice of redemption shall either (a) contain a statement that the redemption is conditioned upon the receipt by the Paying Agent on or before the redemption date of funds sufficient to pay the redemption price of the installments of principal of the Bond so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to RUS of the installments of principal of the Bond called for redemption in the same manner as the original redemption notice was mailed, or (b) be given only if funds sufficient to pay the redemption price of the

installments of principal of the Bond so called for redemption are on deposit with the Paying Agent in the applicable fund or account.

Section 10. Uniform Commercial Code. RUS shall possess all rights enjoyed by holders of investment securities under the provisions of the State Uniform Commercial Code--Investment Securities.

Section 11. Bond Registration, Transfer and Exchange. (A) The Bond shall be issued in a fully registered form, i.e., registered as to the payment of both principal and interest. The Bond may only be transferred by RUS pursuant to an amendment to this ordinance setting forth provisions for such transfer.

(B) If the Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such evidence, information or indemnity relating thereto as it or the Town may reasonably require, and upon payment of all expenses in connection therewith, authenticate and deliver a replacement Bond. If such lost, stolen, destroyed or mutilated Bond shall have matured or shall have been called for redemption, the Registrar may direct that such Bond be paid by the Paying Agent in lieu of replacement. Notwithstanding the foregoing, so long as RUS is the Owner of the Bond, security or indemnity will not be required in the event the Bond is lost or destroyed.

(C) Whenever the Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Registrar for replacement as provided herein, such Bond shall be promptly canceled by the Paying Agent or Registrar.

(D) Except as otherwise herein provided with respect to record dates for the payment of interest, the Town, the Paying Agent, and the Registrar may deem and treat RUS as the absolute owner thereof for all purposes (whether or not the Bond shall be overdue), and any notice to the contrary shall not be binding upon the Town, the Paying Agent, or the Registrar.

Section 12. Execution of the Bond. The Bond shall be executed in the name of and on behalf of the Town and signed by the manual signature of the Mayor, sealed with the manual or facsimile seal of the Town and attested by the manual or facsimile signature of the Town Clerk.

Section 13. Incontestable Recitals in Bond. The Bond shall recite that it is issued under the authority of the Acts and the Supplemental Act. Pursuant to Section 11-57-210, C.R.S., such recital shall be conclusive evidence of the validity and the regularity of the issuance



of the Bond after its delivery for value, and pursuant to Section 31-35-413, C.R.S., such recital conclusively imparts full compliance with all the provisions of said statutes, and the Bond issued containing such recital shall be incontestable for any cause whatsoever after its delivery for value.

Section 14. Special Obligation. Principal of and interest on the Bond shall be payable solely out of the Net Revenues of the System which are hereby pledged for that purpose. RUS may not look to any general or other fund for the payment of Bond principal or interest, except the special funds pledged therefor. The Bond shall not constitute an indebtedness nor a debt (general obligation or otherwise) within the meaning of any constitutional or statutory provision or limitation, and shall not be considered a general obligation of the Town.

Section 15. Form of Bond. The Bond shall be in substantially the following form (provided, however, that any information printed on the back of the Bond shall have the same force and effect as if it were set forth on the face thereof). The RUS Loan is to be evidenced by a single bond numbered R-1. The Bond shall mature in installments of principal and interest, and be subject to prepayments of installments of principal, substantially as provided in Sections 8 and 9 hereof.

(Form of Single Bond)

R-1

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

STATE OF COLORADO

UNITED STATES OF AMERICA

COUNTY OF WELD

TOWN OF HUDSON, COLORADO  
WASTEWATER REVENUE BOND  
SERIES 2011

DATED AS OF

MATURITY DATE

PER ANNUM  
INTEREST RATE

[Date of Delivery], 2011

\_\_\_\_\_, 20\_\_

\_\_\_\_\_%

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

REGISTERED OWNER: \*\*UNITED STATES OF AMERICA\*\*

The Town of Hudson, Colorado (the "Town"), a political subdivision duly organized and operating under the constitution and laws of the State of Colorado, for valued received hereby promises to pay, solely out of the special funds and accounts hereinafter designated but not otherwise, to the registered owner named above, or registered assigns, on the maturity date specified above or on the date of prior redemption, the principal amount specified above. In like manner, the Town promises to pay interest on such principal amount at the interest rate per annum specified above, until the principal amount is paid at maturity or upon prior redemption. The principal of this Bond and interest thereon shall become due in equal amortized installments of principal and interest in the amount of \$ \_\_\_\_\_, payable on each \_\_\_\_\_ 1 and \_\_\_\_\_ 1, beginning on \_\_\_\_\_ 1, 2011, with the final installment of principal and interest being due on \_\_\_\_\_, 20\_\_\_. Interest shall be calculated on the basis of a 365-day year, and all payments shall be applied first to interest, and then to principal, as required by applicable United States of America (Rural Utilities Service) ("RUS") regulations.

Principal and interest are payable in lawful money of the United States of America, without deduction for exchange or collection charges during the period the United States of America is the registered owner of this bond, at such address designated by the United States of America, and are so payable during any period the United States of America is not the registered owner hereof at the address shown on the registration book of the Town. At issuance, the principal and interest shall be paid by check or draft at the RUS Office at USDA Rural Development, Denver Federal Center, Building 56, Room 2300 PO Box 25426, Denver, Colorado 80225-0426, or at such other place as may be indicated by RUS, on or before the payment date, by the Town Treasurer of the Town, or by any successor, as paying agent. The final installment of principal and interest due on this bond is payable only upon the surrender hereof to the Town. If the Town fails to pay when due the semi-annual installments of the unpaid principal as herein provided, interest shall continue to accrue at the rate set forth above until said semi-annual installment is paid in full.

Installments of principal are subject to unlimited prepayment on any date prior to their stated payment dates at the option of the Town in any order, in whole or in part, by the payment of such principal amount and accrued interest to the prepayment date.

Payment of this bond and interest hereon shall be made solely from, and as security for such payment there are pledged, pursuant to the 2011 Wastewater Bond Ordinance (the "Bond Ordinance"), two special funds identified as the "Town of Hudson Wastewater Revenue Bond Fund" and the "Town of Hudson Wastewater Revenue Reserve Fund" into which the Town has covenanted to pay from the revenues derived from the System (as defined in the Bond Ordinance), after provision only for all necessary and reasonable operation and maintenance expenses of the System, sums sufficient to pay the principal of and the interest on this bond and to create and maintain a reasonable and specified reserve therefor. For a description of said funds and the nature and extent of the security afforded thereby, reference is made to the Bond Ordinance. This bond is secured by and constitutes an irrevocable and first lien (but not necessarily an exclusively first lien) upon the Net Revenues of the System. Subject to designated conditions, additional bonds may be issued payable from said Net Revenues and having a lien thereon on a parity with or subordinate to the lien thereon of this bond, in accordance with the Bond Ordinance.

This bond is issued under the authority of Article 45.1 of Title 37, Colorado Revised Statutes ("C.R.S."); Part 4 of Article 35, Title 31, C.R.S., and Part 2 of Article 57, Title 11, C.R.S. Pursuant to such statutes, this recital conclusively imparts full compliance with all the provisions of such law, and any bond issued containing this recital shall be incontestable for any cause whatsoever after its delivery for value and such recital shall be conclusive evidence of the validity and the regularity of the issuance of this bond after its delivery for value.

The Town covenants and agrees with the registered owner hereof that it will keep and perform all the covenants of the Bond Ordinance, including its covenant against the sale or mortgage of the System or any part thereof unless provision has been made for payment of this bond, and its covenant that it will fix, maintain and collect rates sufficient to pay operation and maintenance expenses and 100% of both the principal of and the interest on this bond and any other obligations payable from the Net Revenues of the System (including reserves).

This bond, including interest hereon, does not constitute a debt of the Town within the meaning of any constitutional or statutory limitations or provisions, but is payable solely out of special funds and the Net Revenues of the System pledged to the payment hereof. The registered owner may not look to any general or other fund for payment.

This bond is transferable only upon the registration records kept by the Town Treasurer, as bond registrar, by the registered owner hereof or by his duly authorized attorney-in-fact, or it may be surrendered in exchange for a new bond of the same aggregate principal amount in authorized denominations to the extent practicable and consistent with the maturity schedule provided in, and subject to, the conditions set forth in the Bond Ordinance.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the proper Town officers in the issuance of this bond.

IN WITNESS WHEREOF, Town of Hudson, Colorado has caused this bond to be signed and executed in the name of and on behalf of the Town by the manual or facsimile signature of the Mayor, has caused the manual or facsimile seal of the Town to be affixed hereon and to be attested by the manual or facsimile signature of the Town Clerk, all as of the date of the original delivery hereof.

(Manual or Facsimile Signature)  
Mayor

(SEAL)

Attest:

(Manual or Facsimile Signature)  
Town Clerk

MANDATORY REGISTRATION FOR PAYMENT AS TO  
PRINCIPAL AND INTEREST

The within single bond is registered in the office of the Treasurer of Town of Hudson, Colorado, as Registrar, in the name of the last owner listed below; and the principal amount of the bond and interest thereon shall be payable only to such owner, all in accordance with the 2011 Wastewater Bond Ordinance authorizing the bond's issuance. This bond may not be transferred without an amendment to the 2011 Wastewater Bond Ordinance authorizing such transfer.

Date of Registration	Name of Owner	Address of Owner	Signature of Registrar
_____, 2011	United States of America	Finance Office, USDA* Rural Utilities Service 1520 Market Street, St. Louis, MO 63101	

\* Payments on this bond and correspondence relating thereto shall be made at the address set forth on the first page of this bond, or as otherwise provided by RUS.

(Form of Transfer)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto \_\_\_\_\_ the within bond and irrevocably constitutes and appoints \_\_\_\_\_, attorney-in-fact, to transfer the within bond on the records kept for registration thereof with full power of substitution in the premises.

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

Signature of Registered Owner:

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature guaranteed:

\_\_\_\_\_  
(Bank, Trust Company, or Firm)

Address of transferee: \_\_\_\_\_  
\_\_\_\_\_

Tax Identification Number(s) or Social Security Number(s) of Transferee:

\_\_\_\_\_

(End of Form of Single Bond)

Section 16. Period of Facilities' Usefulness. The facilities, the construction of which is being financed or refinanced with Bond proceeds, will be useful for at least forty years from the date of issuance of the Bond.

Section 17. Disposition of Bond Proceeds.

A. Bond proceeds in the amount set forth in the Sale Certificate shall be promptly paid to the holder of the Note to fully refund and discharge the Note.

B. The remaining proceeds of the Bond after the payment set forth above shall be transferred to the Town to reimburse the Town for improvements to the System.

Section 18. Bond Preparation, Execution and Delivery. The Mayor and the Town Clerk are authorized and directed to prepare and execute the Bond. Thereafter, the Town Administrator shall deliver the Bond to the Purchaser on receipt of the RUS Loan proceeds.

Section 19. Fiscal Year. For the purpose of this ordinance, the System shall be operated upon a Fiscal Year commencing January 1 in each year and ending on December 31 of said year.

Section 20. Income Fund. A special fund previously established which shall be maintained known as the "Town of Hudson Wastewater Fund" (the "Income Fund"). So long as the Bond shall be outstanding, the Gross Revenues shall be deposited into the Income Fund.

Section 21. Administration of Income Fund. The following payments shall be made from the Income Fund.

A. Operation and Maintenance Expenses. First, there shall be set aside such amounts in the Income Fund as the Board shall determine to be reasonable and necessary for the payment of the Operation and Maintenance Expenses. Any surplus remaining at the end of the Fiscal Year and not used for Operation and Maintenance Expenses shall be transferred back to the Income Fund.

B. Town of Hudson Wastewater Revenue Bond Fund Payments. Second, semi-annually, and from the Net Revenues, there shall be deposited into a separate fund known as the "Town of Hudson Wastewater Revenue Bond Fund" (the "Bond Fund") amounts sufficient to make the payments of principal and interest on the Bond as they become due.

C. Parity Bond Payments. Third, concurrently with deposits required to be made by paragraph B above, payments from the Net Revenues shall be made into the debt

service accounts for each of the outstanding Parity Bonds in accordance with their terms and the ordinances authorizing their issuance.

D. Town of Hudson Wastewater Revenue Reserve Fund Payments. Fourth, semi-annually, beginning on the date set forth in the Sale Certificate and subject to paragraphs B and C of this Section, the Town shall deposit the amount set forth in the Sale Certificate into the accounts of a separate fund known as the “Town of Hudson Wastewater Revenue Reserve Fund” (the “Reserve Fund”) set forth below. The moneys in the Reserve Fund shall be maintained as a continuing reserve to be used only for the following purposes:

(A) Securities Requirements. To pay principal of and interest on the Bond, if necessary, to prevent a default, amounts will be deposited into a an account within the Reserve Fund to be known as the “Debt Reserve Account,” which is hereby created, until the amount in the Debt Reserve Account equals the Reserve Requirement. Amounts on deposit in the Debt Reserve Account may only be applied with the written consent of RUS.

(B) Major Maintenance Costs. To pay the costs of extraordinary and major repairs, renewals, replacements or maintenance items appertaining to the System of a type not recurring annually and not defrayed as Operation and Maintenance Expenses, amounts will be deposited into an account within the Reserve Fund to be known as the “Short Lived Asset Reserve Account,” which is hereby created. Amounts on deposit in the Debt Reserve Account may be applied by the Town as needed without the consent of RUS.

E. Termination of Deposits. Payment need not be made into the Bond Fund or the Reserve Fund, or both, if the total amount in both funds at least equals the principal and interest requirements of the then outstanding Bond to maturity. In that case, an amount equal to such principal and interest requirements shall be set aside for that purpose and all other moneys may be used in any lawful manner.

F. Defraying Delinquencies in Bond Fund and Reserve Fund. If, for any reason, the Town shall fail to pay into the Bond Fund the full stipulated amount from Net Revenues, then the difference between that paid and the amount stipulated shall be paid into the Bond Fund from the Reserve Fund; provided, however, that, so long as the United States is the Owner of the Bond, no moneys may be withdrawn from the Reserve Fund without written authorization from RUS. Moneys so used shall be replaced in the Reserve Fund from the first revenues thereafter received not required to be otherwise applied by this Section. If the



proceedings authorizing other Parity Bonds require the replacement of moneys in a reserve fund created therefor, then money shall be replaced in each such reserve fund on a pro rata basis. If, for any reason, the Town shall fail to pay into the Reserve Fund the full stipulated amount, the difference between the amount paid and the amount stipulated shall in like manner be paid therein from the first revenues thereafter received not required to be otherwise applied by this Section. The moneys in the Bond Fund shall be used only for the purpose of paying Bond principal and interest.

G. Payment for Subordinate Lien Obligations. After making the above payments, any balance in the Income Fund may be used for the payment of principal of and interest on additional bonds with a lien on the Net Revenues which is subordinate to the lien thereon of the Bond, including reasonable reserves therefor.

H. Use of Surplus Revenues. After making the above payments, the remaining Net Revenues shall be applied for any lawful purpose of the Town.

Section 22. General Administration of Funds. The funds and accounts hereof shall be administered as follows:

A. Places and Times of Deposits. The above accounts and funds shall be separately maintained and deposited in one or more bank accounts in an Insured Bank or Banks. Each account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any other purpose. Payments shall be made into the proper account on the first day of the month, except when the first day shall be a Sunday or legal holiday, then payment shall be made on the preceding business day. At least 5 days prior to any Payment Date, moneys sufficient to pay interest and principal then due shall be credited at the Paying Agent. Nothing in this ordinance shall prevent the Board from establishing one bank account for any of the funds required by this ordinance.

B. Investment of Money. Any moneys in any fund or account designated in Sections 20 and 21 of this ordinance may be invested or reinvested by the Town in such obligations as may be permitted by the Constitution and laws of the State and approved by RUS. The obligations so purchased as an investment of moneys in any fund shall be deemed at all times to be part of said fund, and the interest accruing thereon and any profit realized therefrom shall be credited to the fund and any loss resulting from such investment shall be charged to the fund. The Town shall present for redemption or sale on the prevailing market any obligations so

purchased as an investment of moneys in the fund whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

Section 23. Lien of the Bond. The Bond constitutes an irrevocable and first lien (but not necessarily an exclusively first lien) upon the Net Revenues.

Section 24. Pledge of Revenues. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Bond as provided herein shall be governed by Section 11-57-208 of the Supplemental Act and this ordinance. The Net Revenues, as received by or otherwise credited to the Town, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the Net Revenues and the obligation to perform the contractual provisions made herein shall have priority over any or all other obligations and liabilities of the Town. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Town irrespective of whether such persons have notice of such lien.

Section 25. Additional Bonds.

A. Earnings Tests. This ordinance shall not prevent (subject to the written consent of RUS) the issuance of Parity Bonds. Before any such additional Parity Bonds are actually issued it must be determined that:

1. The Town is not, and has not been in default as to any payments required to be made in Section 21 hereof during the Fiscal Year immediately preceding the issuance of such additional Parity Bonds; and

2. The annual Net Revenues derived from the operation of said System for the Fiscal Year immediately preceding the date of the ordinance authorizing the issuance of any such Parity Bonds shall have been sufficient to pay an amount representing 120% of the average annual principal and interest requirements on the Bond and any Parity Bonds then outstanding constituting a first lien upon the Net Revenues and the bonds proposed to be issued (excluding reserves). As used in this Section "average annual principal and interest requirements" shall be the total principal and interest coming due on the then outstanding and proposed Parity Bonds during the period extending from the date of the proposed Parity Bonds to the final principal payment date of the then outstanding Bond or any Parity Bonds or the proposed Parity Bonds, whichever is longer, divided by the number of years (including any

fraction thereof) computed from the date of the proposed Parity Bonds to the last principal payment date of the then outstanding Bond or any Parity Bonds, or the proposed Parity Bonds, whichever is longer.

The foregoing limitations upon the issuance of Parity Bonds shall not apply in the case of the issuance of additional Parity Bonds necessary to complete the facilities financed and refinanced by the Project in accordance with the original plans and specifications thereof or as prepared and filed by the Consulting Engineer and upon certificates by such Engineers that such Parity Bonds are required for such original project. Such certificates shall conclusively determine the right of the Town to issue such Parity Bonds.

B. Certification of Revenues. A written opinion or certificate by an Independent Accountant or the Town Administrator that annual Net Revenues are sufficient shall conclusively determine the right of the Town to issue additional Parity Bonds. The Independent Accountant or the Town Administrator may utilize the results of any annual audit to the extent it covers the applicable period.

C. Consideration of Additional Expenses. In determining whether additional Parity Bonds may be issued, the Independent Accountant or Town Administrator shall consider any probable increase (but not reduction) in Operation and Maintenance Expenses. A written certificate by a Consulting Engineer as to the amount of such probable increase may be conclusively relied upon in determining the right of the Town to issue additional Parity Bonds.

D. Subordinate Obligations Permitted. The Town may issue bonds or other obligations having a lien on the Net Revenues which is subordinate to the lien thereon of the Bond.

E. Superior Obligations Prohibited. The Town may not issue any bond or other obligation having a lien on the Net Revenues prior and superior to the Bond.

Section 26. No Defeasance. Pursuant to RUS Instruction 1780, §1780.94(j)(4), while the United States of America is the Owner of the Bond, the Bond may not be defeased.

Section 27. Protective Covenants. The Town covenants and agrees with each and every Holder that:

A. Payment of Bond Herein Authorized. The Town will pay the principal of and interest on the Bond at the place, on the dates, and in the manner specified according to the true intent and meaning thereof.