

**CITY OF OWOSSO  
REGULAR MEETING OF THE CITY COUNCIL  
MINUTES OF APRIL 20, 2020  
7:30 P.M.  
VIRTUAL MEETING**

Mayor Christopher T. Eveleth called the meeting to order and announced the meeting would be held as a Virtual Meeting due to the COVID-19 pandemic, under the authority of Executive Order No. 2020-15 of the Office of the Governor of the State of Michigan. He also noted the process for making comments during the Citizen Comments and Questions period and indicated those wishing to comment must sign up by 7:35 p.m.

**PRESIDING OFFICER:** MAYOR CHRISTOPHER T. EVELETH

**OPENING PRAYER:** COUNCILMEMBER NICHOLAS L. PIDEK

**PLEDGE OF ALLEGIANCE:** MAYOR CHRISTOPHER T. EVELETH

**PRESENT:** Mayor Christopher T. Eveleth, Mayor Pro-Tem Susan J. Osika, Councilmembers Loreen F. Bailey, Janae L. Fear, Jerome C. Haber, Daniel A. Law, and Nicholas L. Pidek.

**ABSENT:** None.

Mayor Eveleth noted that the agenda for this meeting has been arranged slightly different than normal. Due to the constraints of holding a meeting virtually the 2<sup>nd</sup> opportunity for citizen comments has been removed. He also asked that Councilmembers please state their last name when making a motion or support.

**APPROVE AGENDA**

Motion by Councilmember Bailey to approve the agenda with the following change to the Consent Agenda:

1. Set Public Hearing – 2020-2021 City Budget. Change the date of the public hearing from May 4, 2020 to May 18, 2020.

Motion supported by Councilmember Pidek and concurred in by unanimous vote.

**APPROVAL OF THE MINUTES OF REGULAR MEETING OF APRIL 6, 2020**

Motion by Councilmember Fear to approve the Minutes of the Regular Meeting of April 6, 2020 as presented.

Motion supported by Councilmember Bailey and concurred in by unanimous vote.

**PROCLAMATIONS / SPECIAL PRESENTATIONS**

None.

**PUBLIC HEARINGS**

None.  
Mayor Eveleth repeated the instructions for making citizen comments.

**CITIZEN COMMENTS AND QUESTIONS**

Eddie Urban, 601 Glenwood Avenue, spoke about pictures in the newspaper that showed people being careless about the social distancing orders from the Governor. He also expressed his praise for all essential workers.

**CONSENT AGENDA**

Motion by Mayor Pro-Tem Osika to approve the Consent Agenda as follows:

**Set Public Hearing - 2020-2021 City Budget.** Set required Public Hearing pursuant to Chapter 8 of the City Charter for Monday, May 18, 2020 to receive citizen comment regarding proposed 2020-2021 City Budget.

**DDA/Main Street RLF Emergency Response Loans.** Approve the loan of \$35,000.00 in emergency response funds to 7 businesses in the downtown to assist them in weathering the mandatory shut-down of non-essential businesses during the COVID-19 pandemic as follows:

**RESOLUTION NO. 64-2020**

**AUTHORIZING RELEASE OF OMS/DDA REVOLVING LOAN FUNDS  
FOR EMERGENCY RESPONSE LOANS TO DOWNTOWN BUSINESSES: COVID-19 ROUND 2**

WHEREAS, in 1994 the city of Owosso established the Downtown Owosso Revolving (formerly UDAG/CDBG) Loan Program for projects within the Owosso Downtown Development Authority district; and

WHEREAS, on June 17, 2019 City Council approved the new OMS/DDA Revolving Loan & Grant Program, giving stewardship of the loan and grant process to the Owosso Main Street/DDA Board.

WHEREAS, on March 16, 2020 the OMS/DDA Board approved the addition of Emergency Response Loans to the RLF Manual. These loans were created to this deferment action is in response to:

- The COVID-19 Pandemic
- County & State-wide “social distancing” and “community separation” guidelines related to the COVID-19 pandemic;
- The State-mandated shut-down of all non-essential businesses.

WHEREAS, on April 13, 2020 the OMS/DDA Revolving Loan Committee reviewed and approved 7 applications totaling **\$35,000.00** in Emergency Response Grants.

WHEREAS, on April 14, 2020 the OMS/DDA Board of Directors approved the Revolving Loan Committee’s recommendations.

NOW THEREFORE BE IT RESOLVED by the city council of the city of Owosso, Shiawassee County, Michigan that:

FIRST: The City of Owosso approves the loan of **\$5,000.00** to below listed applicants according to the terms & specifications determined by the OMS/DDA Loan & Grant Manual.

- Aamazon Legal Services, PLLC; 401 S. Shiawassee Street
- Cutting Edge Salon & Spa; 110 N. Washington Street
- Elite Pet Styling; 216 W. Exchange Street
- IHM Enterprises, LLC.; 116 W. Main Street
- R & B Music and Sound, LLC.; 109 N. Ball Street
- Liquid Rainbow, Inc.; 905 W. Main Street
- Town to Town Gourmet Pastries; 900 W. Main Street

**General Engineering Services Contracts.** Consider contracting with the Spicer Group, Fleis & Vandenbrink Engineering, Inc., ENG, Inc., and Orchard Hiltz& McCliment to provide professional engineering services for future engineering projects in accordance with the City Purchasing Policy for a period, renewed annually, through June 30, 2023 as follows:

**RESOLUTION NO. 65-2020**

**AUTHORIZING THE EXECUTION OF AGREEMENTS  
FOR PROFESSIONAL ENGINEERING SERVICES WITH  
SPICER GROUP,  
FLEIS & VANDENBRINK ENGINEERING, INC.  
ENG, INC  
OHM ADVISORS**

WHEREAS, the city of Owosso, Michigan, has determined that it is advisable, necessary and in the public interest to secure professional engineering services for various public improvement projects in the city; and

WHEREAS, a quality based selection process was developed to select qualified engineering firms, and on March 17, 2014, City Council approved the QBS process for General Engineering Services, and

WHEREAS, Spicer Group, Fleis & Vandenbrink Engineering Inc., ENG, Inc., and OHM Advisors have been determined as most qualified to perform engineering services through this process.

NOW THEREFORE BE IT RESOLVED by the city of Owosso, county of Shiawassee, state of Michigan:

FIRST: That the city of Owosso has heretofore determined that it is advisable, necessary and in the public interest to employ the firms of Spicer Group, Fleis & Vandenbrink Engineering Inc., ENG, Inc., and OHM Advisors to provide professional engineering services for future engineering projects occurring through June 30, 2023.

- SECOND: That the mayor and city clerk of the city of Owosso are hereby instructed and authorized to sign the document attached as; Exhibit C-SG-7, Renewal of Agreement for Professional Engineering Services with Spicer Group.
- THIRD: That the mayor and city clerk of the city of Owosso are hereby instructed and authorized to sign the document attached as; Exhibit C-FV-7, Renewal of Agreement for Professional Engineering Services with Fleis & Vandenbrink Engineering Inc.
- FOURTH: That the mayor and city clerk of the city of Owosso are hereby instructed and authorized to sign the document attached as; Exhibit C-ENG-4, Renewal of Agreement for Professional Engineering Services with ENG, Inc.; and
- FIFTH: That the mayor and city clerk of the city of Owosso are hereby instructed and authorized to sign the document attached as; Exhibit C-OHM-3, Renewal of Agreement for Professional Engineering Services with OHM Advisors.
- SIXTH: That the city manager of the city of Owosso is hereby instructed to receive cost proposals/quotes from each of the four firms as specified above for future projects, and to make recommendations to the City Council for acceptance and award of proposed future project services in accordance with the city of Owosso Purchasing Policy for a period renewed annually through June 30, 2023.

**Bid Award – 2020 SRF Project – Sewer Collection System Improvements, Contract No. 1.** Authorize bid award to Insituform Technologies, Inc. for sanitary sewer and manhole trenchless rehabilitation as it relates to the 2020 SRF Project in the amount of \$789,053.50, further authorize payment to the contractor upon satisfactory completion of the work or portion thereof, and further authorize the resolution of tentative award as it relates to this portion of the 2020 SRF Project as follows:

**RESOLUTION NO. 66-2020**

**AUTHORIZING CONTRACT AGREEMENTS WITH INSITUFORM TECHNOLOGIES, INC. OF CHESTERFIELD, MISSOURI, AND CHAMPAGNE & MARX EXCAVATING, INC. OF SAGINAW, MICHIGAN FOR WASTEWATER COLLECTION SYSTEM REHABILITATION AND RECONSTRUCTION SERVICES**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, has budgeted from the Wastewater Capital Replacement Fund for the rehabilitation and reconstruction of sanitary sewer collection system piping and manholes, and

WHEREAS, these replacement projects were approved by city council on November 18, 2019 as a 2020 State Revolving Fund (SRF) Program project, and

WHEREAS, the City of Owosso Director of Public Services and Utilities has reviewed the Bid proposals and verified the required rehabilitation and reconstruction of sanitary sewer collection pipes and manholes as necessary and in the best interest of the city of Owosso, and

WHEREAS, Insituform Technologies, Inc. of Chesterfield Missouri has provided the low responsive and responsible bid in the amount of \$789,053.50, and is considered qualified to perform such rehabilitation services, and

WHEREAS, Champagne & Marx, Inc. of Saginaw, Michigan has provided the responsive and responsible bid in the amount of \$376,299.00, and is considered qualified to perform such reconstruction services.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

- FIRST: The city of Owosso has heretofore determined that it is advisable, necessary and in the public interest to contract with Insituform Technologies, Inc. for the sanitary sewer and manhole rehabilitation services necessary to complete the contract requirements.
- SECOND The city of Owosso has heretofore determined that it is advisable, necessary and in the public interest to contract with Champagne & Marx Excavating, Inc. for the sanitary sewer and manhole reconstruction services necessary to complete the contract requirements.
- THIRD: The accounts payable department is authorized to submit payment to Insituform Technologies, Inc. in the amount of \$789,053.50 plus a contingency amount of \$60,000.00 with prior written approval, for a total of \$849,053.50.
- FOURTH The accounts payable department is authorized to submit payment to Champagne & Marx, Inc. in the amount of \$376,299.00 plus a contingency amount of \$45,000.00 with prior written approval, for a total of \$421,299.00.
- FIFTH: The above expenses shall be paid from account 590-901-973.000.

And

**RESOLUTION NO. 67-2020**

**TO TENTATIVELY AWARD A CONSTRUCTION CONTRACT  
FOR WASTEWATER SYSTEM IMPROVEMENTS  
TO INSITUFORM TECHNOLOGIES, LLC**

WHEREAS, the City of Owosso wishes to construct improvements to its existing wastewater treatment and collection system; and

WHEREAS, the wastewater system improvements project formally adopted on November 18, 2019 will be funded through Michigan's State Revolving Fund; and

WHEREAS, the City of Owosso has sought and received construction bids for the proposed improvements and has received a low bid in the amount of \$789,053.50 from Insituform Technologies, LLC; and

WHEREAS, the project engineer, OHM Advisors has recommended awarding the contract to the low bidder.

NOW THEREFORE BE IT RESOLVED, that the City of Owosso tentatively awards the contract for construction of the proposed wastewater system improvements project to Insituform Technologies, LLC, contingent upon successful financial arrangements with the State Revolving Fund.

**Bid Award & Change Order – 2020 SRF Project – Sewer Collection System Improvements, Contract No. 2.** Authorize bid award to Champagne & Marx Excavating, Inc. for sanitary sewer and manhole reconstruction as it relates to the 2020 SRF Project in the amount of \$530,203.40, further authorize Change Order No. 1 decreasing the scope of the project by \$154,596.24, for a total contract of \$376,299.12, and approve payment to the contractor upon satisfactory completion of the work or portion thereof as follows:

**RESOLUTION NO. 68-2020**

**AUTHORIZING CONTRACT AGREEMENTS WITH INSITUFORM TECHNOLOGIES, INC. OF  
CHESTERFIELD, MISSOURI, AND  
CHAMPAGNE & MARX EXCAVATING, INC. OF SAGINAW, MICHIGAN  
FOR WASTEWATER COLLECTION SYSTEM REHABILITATION AND RECONSTRUCTION SERVICES**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, has budgeted from the Wastewater Capital Replacement Fund for the rehabilitation and reconstruction of sanitary sewer collection system piping and manholes, and

WHEREAS, these replacement projects were approved by city council on November 18, 2019 as a 2020 State Revolving Fund (SRF) Program project, and

WHEREAS, the City of Owosso Director of Public Services and Utilities has reviewed the Bid proposals and verified the required rehabilitation and reconstruction of sanitary sewer collection pipes and manholes as necessary and in the best interest of the city of Owosso, and

WHEREAS, Insituform Technologies, Inc. of Chesterfield Missouri has provided the low responsive and responsible bid in the amount of \$789,053.50, and is considered qualified to perform such rehabilitation services, and

WHEREAS, Champagne & Marx, Inc. of Saginaw, Michigan has provided the responsive and responsible bid in the amount of \$376,299.00, and is considered qualified to perform such reconstruction services.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

- FIRST: The city of Owosso has heretofore determined that it is advisable, necessary and in the public interest to contract with Insituform Technologies, Inc. for the sanitary sewer and manhole rehabilitation services necessary to complete the contract requirements.
- SECOND The city of Owosso has heretofore determined that it is advisable, necessary and in the public interest to contract with Champagne & Marx Excavating, Inc. for the sanitary sewer and manhole reconstruction services necessary to complete the contract requirements.
- THIRD: The accounts payable department is authorized to submit payment to Insituform Technologies, Inc. in the amount of \$789,053.50 plus a contingency amount of \$60,000.00 with prior written approval, for a total of \$849,053.50.

FOURTH The accounts payable department is authorized to submit payment to Champagne & Marx, Inc. in the amount of \$376,299.00 plus a contingency amount of \$45,000.00 with prior written approval, for a total of \$421,299.00.

FIFTH: The above expenses shall be paid from account 590-901-973.000.

And

**RESOLUTION NO. 69-2020**

**TO TENTATIVELY AWARD A CONSTRUCTION CONTRACT  
FOR WASTEWATER SYSTEM IMPROVEMENTS  
TO CHAMPAGNE & MARX EXCAVATING, INC.**

WHEREAS, the City of Owosso wishes to construct improvements to its existing wastewater treatment and collection system; and

WHEREAS, the wastewater system improvements project formally adopted on November 18, 2019 will be funded through Michigan's State Revolving Fund; and

WHEREAS, the City of Owosso has sought and received construction bids for the proposed improvements and has received a low bid in the amount of \$376,299.00 from Champagne & Marx Excavating, Inc.; and

WHEREAS, the project engineer, OHM Advisors has recommended awarding the contract to the low bidder.

NOW THEREFORE BE IT RESOLVED, that the City of Owosso tentatively awards the contract for construction of the proposed wastewater system improvements project to Champagne & Marx Excavating, Inc., contingent upon successful financial arrangements with the State Revolving Fund.

**Warrant No. 584.** Authorize Warrant No. 584 as follows:

Vendor	Description	Fund	Amount
Gould Law, P.C.	Professional Services-3/10/20-4/13/20	General	\$10,333.96
Waste Management	Landfill Charges-3/16/20-3/31/20	Various	\$10,635.94

**Check Register – March 2020.** Affirm check disbursements totaling \$2,592,233.07 for March 2020.

Motion supported by Councilmember Law.

Roll Call Vote.

AYES: Councilmembers Haber, Law, Mayor Pro-Tem Osika, Councilmembers Pidek, Bailey, Fear, and Mayor Eveleth.

NAYS: None.

**ITEMS OF BUSINESS**

**Authorize Virtual Bid Openings**

Mayor Eveleth inquired if such a provision should be included in the ordinance in case of another emergency. City Clerk Amy K. Kirkland indicated staff was open to considering a permanent change in the bid process.

Motion by Councilmember Fear to authorize allowing bids to be received via email and further authorize virtual bid openings until such time as the local state of emergency for COVID-19 is lifted as follows:

**RESOLUTION NO. 70-2020**

**AUTHORIZING DIGITAL BID SUBMISSION AND VIRTUAL BID OPENINGS  
DURING COVID-19 EMERGENCY**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, City ordinance 2-344(5) requires all bid openings to be held publicly and all bids to be submitted as a sealed physical copy; and

WHEREAS, the City of Owosso is authorized by the State of Michigan to continue certain essential services during the COVID-19 emergency; and

WHEREAS, bid openings are required for any purchase over \$10,000; and

WHEREAS, City staff have created the infrastructure necessary to receive bids via email and hold bid openings virtually.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

FIRST: The City of Owosso has theretofore determined that it is advisable, necessary and in the public interest to authorize the City Clerk to hold bid openings virtually.

SECOND: That such bids may be submitted via email.

Motion supported by Councilmember Bailey.

Roll Call Vote.

AYES: Councilmembers Fear, Bailey, Pidek, Mayor Pro-Tem Osika, Councilmembers Haber, Law and Mayor Eveleth.

NAYS: None.

**City Budget Amendment No. 1**

Motion by Councilmember Bailey to adopt Amendment No. 1 to the 2019-2020 Budget as follows:

**RESOLUTION NO. 71-2020**

**CITY OF OWOSSO  
ADOPTION OF AMENDED 2019-2020 BUDGET**

WHEREAS, the City Council of Owosso has adopted a General Appropriations Act Budget for 2019-2020 by Resolution, and

WHEREAS, Section 9 of the General Appropriations Act requires a departmental budget which stipulates that no transfers of departmental appropriations shall be made without prior approval of the Council, and

WHEREAS, MCL 141.437 states that the local legislative body of the local unit shall amend a general appropriations act budget as soon as it becomes apparent that a deviation from the original general appropriations act budget is necessary, and

WHEREAS, the Finance Director has made recommendations that include proposals for measures necessary to provide revenues sufficient to meet expenditures of the fund, and

WHEREAS, the City Council of Owosso has determined these changes in the 2019-2020 Owosso Budget (Act) are needed and necessary to monitor the financial operations of the City and to ensure the appropriations do not exceed the expenditures.

NOW THEREFORE BE IT RESOLVED that the City Council of Owosso hereby adopts the amended revenues and expenditures listed below to be reflected in the 2019-2020 Amended Annual Budget (Act).

**CITY OF OWOSSO BUDGET AMENDMENTS  
Period Projected Ending 03/31/2020 To be Approved 04/20/2020**

**To reflect spending, collections and labor changes**

**General Fund**

	<b>ACCOUNT NUMBER</b>	<b>ACCOUNT DESCRIPTION</b>	<b>CURRENT BUDGET</b>	<b>INCREASE (DECREASE)</b>	<b>AMENDED BUDGET</b>
<b><u>1</u></b>	101-299-818.000	Wage/Classification Study	13,900	29,160	43,060
	101-000-539.573	Local Community Stabilization	55,000	4,160	59,160
	101-000-450.470	Marijuana License Fee	5,000	25,000	30,000
		<b>Reflect Council approval of Wage/Classification Study 8-5-19</b>			
<b><u>2</u></b>	101-335-702.100	Fire Salaries	1,064,472	89,000	1,153,472
	101-335-718.000	Retirement	196,130	16,000	212,130
	101-335-718.100	MERS	-	8,000	8,000
	101-335-719.000	Worker's Compensation	29,404	5,000	34,404
	101-000-695.699	Appropriation of Fund Balance	-	118,000	118,000
		<b>IAFF settlement retro back to FY19-November 2019 contract approval</b>			
<b><u>3</u></b>	101-300-702.100	Police Salaries	1,138,094	35,946	1,174,040
	101-300-718.100	MERS	234,593	12,500	247,093

	101-335-818.000	Contractual Services	62,760	5,900	68,660
	101-000-501.505	Federal Grant-Dept of Justice	-	1,950	1,950
	101-000-539.529	State Sources	-	4,640	4,640
	101-000-671.687	Insurance Refunds	70,000	47,756	117,756
		<b>Police correction to budget and Fire QAAP invoice not budgeted</b>			
<b>4</b>	101-171-702.100	City Manager Salaries	102,743	20,250	122,993
	101-171-715.000	Social Security	7,860	1,150	9,010
	101-171-718.200	Defined Contribution	15,412	1,430	16,842
	101-000-671.687	Insurance Refunds	117,756	7,000	124,756
	101-000-539.573	Local Community Stabilization	59,160	15,830	74,990
		<b>Record Assistant costs and Manager contractual costs</b>		-	
<b>5</b>	101-209-728.000	Assessing Supplies	2,000	(1,594)	406
	101-966-999.400	Transfer to Capital Projects Fund	290,395	1,594	291,989
		<b>Record Assessor's Request for Computer Equipment</b>			
					-
	<b>Other Funds</b>				-
<b>6</b>	401-000-981.000	Vehicles	50,600	84,100	134,700
	401-000-671.687	Insurance Refunds	-	84,100	84,100
		<b>Record Ambulance Insurance Recovery - repair of vehicle</b>			-
					-
<b>7</b>	401-000-699.101	Transfer in from General Fund	290,395	1,594	291,989
	401-000-980.100	Computers	70,695	1,594	72,289
		<b>Record Assessor's Request for Computer Equipment</b>			
<b>8</b>	208-756-974.000	System Improvements	125,000	(125,000)	-
		<b>Reduce parks expenditures to be completed in FY21</b>			-
					-
<b>9</b>	248-000-501.506	Grant-Federal	6,250	167,835	174,085
	248-000-664.664	Interest Income	-	980	980
	248-000-671.675	Donations-Private	-	2,880	2,880
	248-901-965.540	Capital Contributions-Façade	165,236	177,540	342,776
	248-000-695.699	Appropriation of Fund Balance	165,236	5,845	171,081
		<b>Record Façade Activity</b>			
<b>10</b>	273-200-818.000	Contractual Services	11,162	246,989	258,151
	273-000-671.675	Loan Repayments	4,162	16,691	20,853
	273-000-664.664	Interest Income	7,000	1,328	8,328
	273-000-695.699	Appropriation of Fund Balance	-	228,970	228,970
		<b>Record OMS/DDA loans and grants activity thru 3/31/20</b>			-
					-
<b>11</b>	295-000-401.407	Tax Capture Revenue	1,840	66,896	68,736
	295-000-964.969	Tax Reimbursements Exp	1,090	61,564	62,654
	295-000-730.801	Professional Services Exp	750	5,332	6,082
		<b>Record Armory Brownfield Activity</b>			

Motion supported by Councilmember Pidek.

Roll Call Vote.

AYES: Councilmembers Bailey, Fear, Haber, Law, Pidek, Mayor Pro-Tem Osika, and Mayor Eveleth.

NAYS: None.

**Ordinance Adoption – Bonding for SRF Financing – Sewer Collection System**

City Manager Henne noted the bonds in question would be issued at 2% interest over a period of twenty years.

Motion by Councilmember Pidek to adopt the following ordinance to authorize and provide for the issuance of revenue bonds for SRF financing of the cost of acquisition and construction of improvements to the City's sewer collection system under the provisions of Act 94, Public Acts of Michigan, 1933, as amended:

ORDINANCE NO. 806

**AN ORDINANCE TO PROVIDE FOR THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO THE SEWER SYSTEM OF THE CITY OF OWOSSO; TO PROVIDE FOR THE ISSUANCE OF REVENUE BONDS; TO PRESCRIBE THE FORM OF THE REVENUE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE REVENUE BONDS; TO PROVIDE FOR SECURITY FOR THE REVENUE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE REVENUE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE REVENUE BONDS AND THE SYSTEM.**

THE CITY OF OWOSSO ORDAINS:

SECTION 1. Definitions. Whenever used in this Ordinance, except when otherwise indicated by the context, the following terms when capitalized shall have the following meanings:

- (a) "Act 94" means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) "Additional Revenue Bonds" means Revenue Bonds, including Revenue Bonds of prior and senior or equal standing and priority of lien with the Series 2020 Bond, issued under Section 20 of this Ordinance.
- (c) "Adjusted Net Revenues" means for any operating year the excess of revenues over expenses for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds and payments to the City in lieu of taxes, to which may be made the following adjustments.
  - (i) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of Additional Revenue Bonds or to be placed into effect before the time principal or interest on the Additional Revenue Bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.
  - (ii) Revenues may be augmented by amounts which may be derived from rates and charges to be paid (a) as a result of new customers who have been identified by an agreement to purchase service from the System who had not been serviced during the preceding twelve months or (b) as a result of any other new customer or expansion of service to any existing customers or (c) as a result of potential customers which exist in a new service area who will be serviced by the acquisition of the repairs, extensions, enlargements and improvements to said System which have been made during the preceding twelve months or which will be acquired in whole or in part from the proceeds of Additional Revenue Bonds.
  - (iii) If there is a bond reserve account to be funded from the proceeds of Additional Revenue Bonds, then the Revenues may be augmented by an amount equal to the investment income representing interest on investments estimated to be received each operating year from the addition to the bond reserve account to be funded from the proceeds of the Additional Revenue Bonds being issued.

The adjustment of revenues and expenses by the factors set forth in (i), (ii) and (iii) above shall be reported upon by professional engineers or certified public accountants or other experts not in the regular employment of the City.

- (d) "Authorized Officer" means the Finance Director or/and the Public Utilities Director of the City or, in the event that neither of them are available at the time that it becomes necessary to take actions directed or authorized under this Ordinance, the City Manager or a person designated by the Finance Director or the City Manager.
- (e) "Bonds" means any Bonds which may be issued by the City for the purpose of making repairs, extensions, enlargements and improvements to the System, for the payment of which the City intends to use Net Revenues.
- (f) "City" means the City of Owosso, County of Shiawassee, State of Michigan.
- (g) "EGLE" means the Michigan Department of Environment, Great Lakes and Energy, or any successor agency which administers loans from the State of Michigan State Revolving Fund (SRF) program.
- (h) "Ordinance" refers collectively to this ordinance, and any other ordinance amendatory to or supplemental to this Ordinance.
- (i) "Outstanding Revenue Bonds" means, as of any given date, Series 2020 Bond and any Additional Revenue Bonds of equal or prior standing hereafter issued and delivered under this Ordinance except:
  - (i) Bonds (or portions of Bonds) paid off at or prior to such date;



- (ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys or Sufficient Government Obligations equal to the principal amount or redemption price, as the case may be, with interest to the date of maturity or redemption date, shall be held in trust under this Ordinance and set aside for such payment or redemption (whether at or prior to the maturity or redemption date) provided that if such Bonds are to be redeemed, notice of such redemption shall have been given as provided in the Bond or provision shall have been made for the giving of such notice; and
- (iii) Bonds in lieu of or in substitution for which other Bonds shall have been delivered.
- (j) "Revenue Bonds" means, as of any given date, the Series 2020 Bond and any Additional Revenue Bonds of equal or prior standing hereafter issued and delivered under this Ordinance.
- (k) "Revenues" and "Net Revenues" mean the revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to "Revenues" the earnings derived from the investment of moneys in the various funds and accounts established by this Ordinance, and other revenues derived from or pledged to operation of the System.
- (l) "Series 2020 Bond" means the Sewer System Revenue Bond, Series 2020 authorized by this Ordinance.
- (m) "Series 2020 Project" means the improvements to the City's sewer system including, but not limited to, replacement and rehabilitation of sewer pipes and manholes, together with any appurtenances and attachments and any related site improvements.
- (n) "Sufficient Government Obligations" means direct obligations of the United States of America or obligations the principal and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments upon which, without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the Bonds and the principal and redemption premium, if any, on the Bonds as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any Bond is to be called for redemption prior to maturity, irrevocable instructions to call the Bond for redemption shall be given.
- (o) "System" means the entire Sewer System of the City including the facilities acquired and constructed with the proceeds of the Series 2020 Bond, and such other facilities as are now existing including all appurtenances, enlargements, extensions, repairs and improvements thereto hereafter made.

SECTION 2. Necessity; Approval of Plans and Specifications. It is hereby determined to be a necessary public purpose of the City to acquire and construct the Series 2020 Project in accordance with the plans and specifications prepared by the City's consulting engineers, which plans and specifications are hereby approved.

SECTION 3. Costs; Useful Life. The cost of the Series 2020 Project is estimated to be not-to-exceed One Million Three Hundred Forty Thousand Dollars (\$1,340,000) including the payment of incidental expenses as specified in Section 4 of this ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Series 2020 Project is estimated to be not less than twenty-five (25) years.

SECTION 4. Payment of Project Cost; Series 2020 Bond Authorized. To pay the cost of acquiring and constructing the Series 2020 Project, including payment of legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2020 Bond, the City shall borrow a sum of not-to-exceed One Million Three Hundred Forty Thousand Dollars (\$1,340,000), as finally determined by an Authorized Officer at the time of sale of the Series 2020 Bond, and issue its Series 2020 Bond pursuant to the provisions of Act 94. The remaining cost of the Series 2020 Project, if any, shall be defrayed from City funds on hand and legally available for such use.

SECTION 5. Issuance of Series 2020 Bond; Details. The Series 2020 Bond shall be designated as the "SEWER SYSTEM REVENUE BOND, SERIES 2020." The Series 2020 Bond shall be payable solely out of the Net Revenues and other moneys pledged under this Ordinance, and shall not be a general obligation of the City.

The Series 2020 Bond shall be issued in the form of one or more fully-registered, nonconvertible bonds, dated as of the date of delivery, payable in annual principal installments on October 1 from October 1, 2021 through October 1, 2040 or on such other dates as determined by the order of the EGLE and approved by the Michigan Finance Authority and an Authorized Officer, provided that the final payment on the Series 2020 Bond shall occur within the period of usefulness of the Series 2020 Project as set forth in Section 3 of this Ordinance. Final determination of the Principal Amount and the payment dates and amounts of principal installments of the Series 2020 Bond shall be evidenced by execution of a Purchase Contract (the "Purchase Contract") between the City and the Michigan Finance Authority providing for sale of the Series 2020 Bond, and an Authorized Officer is authorized and directed to execute and deliver the Purchase Contract.

The Series 2020 Bond shall bear interest at a rate or rates to be determined by an Authorized Officer at the time of execution of the Purchase Contract, but in any event not exceeding the maximum amount permitted by law, payable semiannually beginning October 1, 2020 or on such other dates as determined

in the Purchase Contract. In addition, if required by the Michigan Finance Authority, the Series 2020 Bond will bear additional interest, under the terms required by Michigan Finance Authority, in the event of a default by the City in the payment of principal or interest on the Series 2020 Bond when due. The Series 2020 Bond principal amount is expected to be drawn down by the City periodically, and interest on each installment of the principal amount shall accrue from the date such principal installment is drawn down by the City. Principal installments of the Series 2020 Bond will be subject to prepayment prior to maturity as permitted by the Michigan Finance Authority and approved by an Authorized Officer.

The Mayor and City Clerk are authorized to execute the Series 2020 Bond by manual or facsimile signature. At least one signature on the Series 2020 Bond shall be a manual signature. The Series 2020 Bond may be transferred by the bondholder as provided in the Series 2020 Bond as executed.

**SECTION 6. Payment of Series 2020 Bond; Security.** The Series 2020 Bond and the interest thereon shall be payable solely and only from the Net Revenues, and to secure such payment, there is hereby created a statutory lien upon the whole of the Net Revenues which shall continue until payment in full of the principal of and interest on the Series 2020 Bond, or, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of the principal of and interest on the Series 2020 Bond to maturity, or, if called for redemption, to the date fixed for redemption, together with the amount of the redemption premium, if any. Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentence, the statutory lien shall be terminated with respect to the Series 2020 Bond, the holder of the Series 2020 Bond shall have no further rights under this Ordinance except for payment from the deposited funds, and the Series 2020 Bond shall be considered to be defeased and shall no longer be considered to be outstanding under this Ordinance.

**SECTION 7. State Revenue Sharing Pledge.** If required by the Michigan Finance Authority, as additional security for repayment of the Series 2020 Bond, the City Council agrees to pledge the state revenue sharing payments that the City is eligible to receive from the State of Michigan under Act 140, Public Acts of Michigan, 1971, as amended, to the Michigan Finance Authority as purchaser and holder of the Series 2020 Bond. Either of the Authorized Officers are authorized to execute and deliver a revenue sharing pledge agreement between the City and the Michigan Finance Authority.

**SECTION 8. Bondholders' Rights; Receiver.** The holder or holders of the Revenue Bonds representing in the aggregate not less than twenty percent (20%) of the entire principal amount of Outstanding Revenue Bonds, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the City, including the fixing of sufficient rates, the collection of Revenues, and the proper segregation and application of the Revenues of the System. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part of the System.

If there is a default in the payment of the principal of or interest on the Revenue Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the City and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the City more particularly set forth herein and in Act 94.

The holder or holders of the Revenue Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Revenue Bonds and the security therefor.

**SECTION 9. Management; Operating Year.** The operation, repair and management of the System and the acquisition and construction of the Series 2020 Project shall continue to be under the supervision and control of the City Council. The City Council may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System. The City Council may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The System shall be operated on the basis of an operating year which shall coincide with the City's fiscal year.

**SECTION 10. No Free Service or Use.** No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the City.

**SECTION 11. Fixing and Revising Rates; Rate Covenant.** The rates and charges for service furnished by and the use of the System and the methods of collection and enforcement of the collection of the rates shall be those in effect on the date of adoption of this Ordinance. The rates now in effect are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the Bonds as the same become due and payable, and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. It is hereby covenanted and agreed to fix and maintain rates for services furnished by the System at all times sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, and to provide for all other obligations, expenditures and funds for the System required by law including, specifically to provide for payment of principal of, interest, and premium, if any, on the Bonds.

The rates and charges for operation, maintenance, replacement and administration hereby established shall be based upon a methodology which complies with the applicable federal and state statutes and

regulations. The amount of the rates and charges shall be sufficient to provide for debt service and for the expenses of operation, maintenance, replacement and administration of the system as necessary to preserve the same in good repair and working order. The amount of the rates and charges shall be reviewed annually and revised when necessary to ensure system expenses are met and that all users pay their proportionate share of operation, maintenance, equipment replacement and administration expenses.

**SECTION 12. Funds and Accounts; Flow of Funds.** All Revenues of the System shall be set aside as collected and credited to an account to be designated SEWER SYSTEM RECEIVING ACCOUNT (the "Receiving Account"). The Revenues credited to the Receiving Account are pledged for the purpose of the following funds and shall be transferred or debited from the Receiving Account periodically in the manner and at the times and in the order of priority hereinafter specified, provided that no transfer shall be required to be made to a fund on any date if the amount on deposit in the fund is sufficient to meet the requirements of this Ordinance:

- A. **OPERATION AND MAINTENANCE ACCOUNT:** Out of the Revenues credited to the Receiving Account there shall be first set aside in, or credited to, the OPERATION AND MAINTENANCE ACCOUNT (the "Operation and Maintenance Account"), periodically a sum sufficient to provide for the payment of expenses of administration and operation of the System and such current expenses for the maintenance of the System as may be necessary to preserve the System in good repair and working order.

A budget, showing in detail the estimated costs of administration, operation and maintenance of the System for the next ensuing operating year, shall be prepared by the City Council at least 30 days prior to the commencement of each ensuing operating year. No payments shall be made to the City from moneys credited to the Operation and Maintenance Account except for services directly rendered to the System by the City or its personnel.

- B. **REVENUE BOND AND INTEREST REDEMPTION ACCOUNT:** There shall be established and maintained a separate depository account designated REVENUE BOND AND INTEREST REDEMPTION ACCOUNT (the "Revenue Bond Redemption Account"), the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of, redemption premiums (if any) and interest on the Revenue Bonds.

Out of the Revenues remaining in the Receiving Account, after provision for the Operation and Maintenance Account, there shall be set aside periodically in the Revenue Bond Redemption Account a sum sufficient to provide for the payment when due of the current principal of and interest on such Revenue Bonds including any amounts necessary to maintain any reserve account established within the Revenue Bond Redemption Account.

The amount to be set aside for the payment of principal and interest on any date shall not exceed the amount which, when added to the money on deposit in the Revenue Bond Redemption Account, including investment income thereon and on any bond reserve account which may be established on a future date, is necessary to pay principal and interest due on the Revenue Bonds on the next succeeding principal payment date.

The City may establish a separate bond reserve account in the Revenue Bond Redemption Account. If the City issues senior lien revenue bonds as described in this Ordinance, then the City may establish a senior lien Revenue Bond Redemption Account.

- C. **REPLACEMENT AND IMPROVEMENT ACCOUNT:** Out of the remaining Revenues in the Receiving Account, after meeting the requirements of the Operation and Maintenance Account and the Revenue Bond Redemption Account, including any reserve account maintained therein, there may be next set aside in or credited to the REPLACEMENT AND IMPROVEMENT ACCOUNT (the "Replacement and Improvement Account"), which Replacement and Improvement Account may have several subaccounts therein, such sums periodically as the City may deem advisable to be used for additions, improvements, enlargements or extensions to the System, including the planning thereof.

- D. **GENERAL OBLIGATION BOND PAYMENT ACCOUNT:** Out of the Revenues remaining in the Receiving Account after meeting the requirements of the Operation and Maintenance Account, the Revenue Bond Redemption Account, and the Replacement and Improvement Account, there shall be next set aside in, or credited to, the General Obligation Bond Payment Account, amounts which shall be proportionately sufficient to provide for payment of principal, interest and premiums, if any, on the City's General Obligation Limited Tax Sewer System Improvement Bond, Series 2008 dated June 23, 2008, and any other general obligation bonds issued by the City for improvements to the System. Amounts in the General Obligation Bond Payment Account shall be withdrawn as necessary to pay the principal of and interest and premium on the general obligation bonds issued by the City as the same become due; the moneys withdrawn for payment of the general obligation bonds issued by the City shall be deposited in the Debt Retirement Account created for the general obligation bonds, if established.

- E. **SURPLUS MONEYS:** Thereafter, any Revenues in the Receiving Account after satisfying all the foregoing requirements of this Section may, at the discretion of the City, remain in the Receiving Account, or be transferred to the Replacement and Improvement Account, or be used for any other purpose permitted by law.

SECTION 13. Priority of Funds. In the event the moneys in the Receiving Account are insufficient to provide for the current requirements of the Operation and Maintenance Account, the Revenue Bond Redemption Account, the Replacement and Improvement Account or the General Obligation Bond Payment Account, any moneys or securities in other funds of the System, except the proceeds of sale of Bonds, shall be credited or transferred, first, to the Operation and Maintenance Account, second to the Revenue Bond Redemption Account, including any reserve account maintained therein, third, to the Replacement and Improvement Account, and finally, to the General Obligation Bond Payment Account.

SECTION 14. Depository and Funds on Hand. Pursuant to Section 24 of Act 94, moneys in the several funds and the accounts established pursuant to this Ordinance, except moneys in either the Revenue Bond Payment Account (including any bond reserve account which may be established on a future date) or the General Obligation Bond Payment Account (either, a "Bond Payment Account") may be kept in one or more bank accounts at a bank or banks designated by resolution of the City, and if kept in one bank account the moneys shall be allocated among the several funds on the books and records of the City in the manner and at the times provided in this Ordinance.

SECTION 15. Investments. Moneys in the funds and accounts established herein and moneys derived from the proceeds of sale of the Bonds may be invested by the City Treasurer on behalf of the City in the obligations and instruments permitted for investment by Section 24 of Act 94, as the same may be amended from time to time. If the moneys invested are kept in one account, as provided in this Ordinance, then the monies shall be allocated among the several funds on the books and records of the City in the manner and at the times provided in this Ordinance. Investment of moneys in a Bond Payment Account being accumulated for payment of the next maturing principal or interest payment of Bonds shall be limited to obligations bearing maturity dates prior to the date of the next maturing principal or interest payment on such Bonds. In the event investments are made, any securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds or account from which the purchase was made. Profit realized or interest income earned on investment of funds in the Receiving Account, Operation and Maintenance Account and Replacement and Improvement Account shall be deposited in or credited to the Receiving Account at the end of each fiscal year. Profit realized on interest income earned on investment of moneys in a Bond Payment Account shall be credited as received to such Bond Payment Account.

SECTION 16. Bond Proceeds. The proceeds of the sale of the Series 2020 Bond as received by the City shall be deposited in an account separate from other money of the City and held in a bank or banks qualified to act as depository of the proceeds of sale under the provisions of Section 15 of Act 94 designated "2020 SRF #5699-01 PROJECT CONSTRUCTION ACCOUNT" (the "2020 Construction Account"). Moneys in the 2020 Construction Account shall be applied solely in payment of the cost of the Series 2020 Project including any engineering, legal and other expenses incident thereto and to the costs of issuance of the Series 2020 Bond. Any balance remaining in the 2020 Construction Account after completion of the Series 2020 Project may be used for any other improvements to the System if such use is permitted by state law and will not cause the interest on the Series 2020 Bond to be included in gross income for federal income tax purposes within the meaning of the Internal Revenue Code. Any remaining balance shall be paid into the Revenue Bond Redemption Account and used as permitted by state law.

SECTION 17. Revenue Bond Form. The Series 2020 Bond shall be in substantially the following form subject to such changes, including references to additional security, as may be required by the Michigan Finance Authority:

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[FORM OF BOND TO BE COMPLETED AFTER BOND SALE]  
UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF SHIAWASSEE  
CITY OF OWOSSO  
SEWER SYSTEM REVENUE BOND, SERIES 2020  
SRF #5699-01

Registered Owner: Michigan Finance Authority  
Principal Amount: [amount]  
Date of Original Issue: [date]

The CITY OF OWOSSO, County of Shiawassee, State of Michigan (the "City" or the "Issuer"), for value received, acknowledges itself to owe, and for value received hereby promises to pay, but only out of the hereinafter described Net Revenues of the City's Sewer System (hereinafter defined), to the Michigan Finance Authority (the "Authority"), or registered assigns, the Principal Amount shown above, or such portion thereof as shall have been advanced to the City pursuant to a Purchase Contract between the City and the Authority and a Supplemental Agreement by and among the City, the Authority and the State of Michigan acting through the Department of Environment, Great Lakes and Energy, in lawful money of the United States of America, unless prepaid prior thereto as hereinafter provided.

During the time the Principal Amount is being drawn down by the City under this bond, the Authority will periodically provide to the City a statement showing the amount of principal that has been advanced and the date of each advance, which statement shall constitute prima facie evidence of the reported information; provided that no failure on the part of the Authority to provide such a statement or to

reflect a disbursement or the correct amount of a disbursement shall relieve the City of its obligation to repay the outstanding Principal Amount actually advanced, all accrued interest thereon, and any other amount payable with respect thereto in accordance with the terms of this bond.

The Principal Amount shall be payable on the dates and in the annual principal installment amounts set forth on Schedule I attached hereto and made a part hereof, as Schedule I may be adjusted if less than \$[amount] is disbursed to the City, or if the City prepays a portion of the Principal Amount as provided below with the prior written consent of the Authority, with interest on the principal installments from the date each installment is delivered to the holder hereof until paid at the rate of 2.00% per annum. Interest is first payable on [date], and semiannually thereafter, and principal is payable on the first day of [month] commencing [date] (as identified in the Purchase Contract) and annually thereafter.

Principal installments of this bond are subject to prepayment by the City prior to maturity only with the prior written consent of the Authority and on such terms as may be required by the Authority.

Notwithstanding any other provision of this bond, as long as the Authority is the owner of this bond, (a) this bond is payable as to principal, premium, if any, and interest at [Bank], or at such other place as shall be designated in writing to the City by the Authority (the "Authority's Depository"); (b) the City agrees that it will deposit with the Authority's Depository payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; in the event that the Authority's Depository has not received the City's deposit by 12:00 noon on the scheduled day, the City shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment; and (c) written notice of any redemption of this bond shall be given by the City and received by the Authority's Depository at least 40 days prior to the date on which such redemption is to be made.

#### Additional Interest

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the Authority's cost of providing funds (as determined by the Authority) to make payment on the bonds of the Authority issued to provide funds to purchase this bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the Authority has been fully reimbursed for all costs incurred by the Authority (as determined by the Authority) as a consequence of the City's default. Such additional interest shall be payable on the interest payment date following demand of the Authority. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the Authority) the investment of amounts in the reserve account established by the Authority for the bonds of the Authority issued to provide funds to purchase this bond fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the Authority issued to fund such account, the City shall and hereby agrees to pay on demand only the City's pro rata share (as determined by the Authority) of such deficiency as additional interest on this bond.

For prompt payment of principal and interest on this bond, the City has irrevocably pledged the revenues of its Sewer System, including all appurtenances, extensions and improvements thereto (the "System"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory lien thereon is hereby recognized and created.

This bond is a single, fully-registered, non-convertible bond issued in the Principal Amount pursuant to Ordinance No. [XX] duly adopted by the City Council of the City (the "Ordinance"), and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying the cost of acquiring and constructing improvements to the System.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of superior and equal standing may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinance. The Ordinance is on file at the office of the City Clerk and reference is made to the Ordinance and any and all supplements thereto and modifications and amendments thereof, if any, and to Act 94 for a more complete description of the pledges and covenants securing this bond, the nature, extent and manner of enforcement of such pledges, the rights and remedies of the registered owner of this bond with respect thereto and the terms and conditions upon which this bond is issued and may be issued thereunder.

**THIS BOND IS A SELF-LIQUIDATING BOND AND IS NOT A GENERAL OBLIGATION OF THE CITY AND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN ANY CONSTITUTIONAL, STATUTORY OR CHARTER LIMITATION, AND IS PAYABLE BOTH AS TO PRINCIPAL AND INTEREST, SOLELY FROM THE NET REVENUES OF THE SYSTEM AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE ORDINANCE. THE PRINCIPAL AND INTEREST ON THIS BOND ARE SECURED BY THE STATUTORY LIEN HEREINBEFORE DESCRIBED.**

**The City has reserved the right, on the conditions stated in the Ordinance, to issue additional bonds of prior and senior or equal standing and priority of lien with this bond as to the Net Revenues.**

The City has covenanted and agreed, and does hereby covenant and agree, to fix and maintain at all times while any bonds payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the principal of and interest on the bonds payable from the Net Revenues of the System, as and when the same shall become due and payable, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

This bond is transferable only upon the books of the City by the registered owner in person or the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the City, duly executed by the registered owner or the registered owner's attorney, and thereupon a new bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance, and upon payment of the charges, if any, therein prescribed.

It is hereby certified and recited that all acts, conditions and things required by law to be done precedent to and in the issuance of this bond have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the City, by its City Council, has caused this bond to be executed by its Mayor and its City Clerk and the corporate seal or a facsimile to be impressed or printed hereon, all as of the Date of Original Issue.

CITY OF OWOSSO  
By \_\_\_\_\_ [Mayor to sign bond] \_\_\_\_\_  
Mayor

(seal)  
Countersigned:  
Its \_\_\_\_\_ [City Clerk to sign bond] \_\_\_\_\_  
City Clerk

Name of Issuer: City of Owosso  
Project No.: SRF 5699-01  
Approved Amt: \$[amount]

SCHEDULE I

Based on the schedule provided below unless revised as provided in this paragraph, repayment of principal of the bond shall be made until the full amount advanced to the Issuer is repaid. In the event the Order of Approval issued by the Department of Environment, Great Lakes and Energy (the "Order") approves a principal amount of assistance less than the amount of the bond delivered to the Authority, the Authority shall only disburse principal up to the amount stated in the Order. In the event (1) that the payment schedule approved by the Issuer and described below provides for payment of a total principal amount greater than the amount of assistance approved by the Order, or (2) that less than the principal amount of assistance approved by the Order is disbursed to the Issuer by the Authority, the Authority shall prepare a new payment schedule which shall be effective upon receipt by the Issuer.

Due Date	Amount of Principal Installment Due
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Interest on the bond shall accrue on that portion of principal disbursed by the Authority to the Issuer from the date such portion is disbursed, until paid, at the rate of 2.00% per annum, payable [date], and semi-annually thereafter.

The Issuer agrees that it will deposit with [Bank], or at such other place as shall be designated in writing to the Issuer by the Authority (the "Authority's Depository") payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise. In the event that the Authority's Depository has not received the Issuer's deposit by 12:00 noon on the scheduled day, the Issuer shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment.

\* Not to exceed amount. Loan reductions at close out will result in a proportional decrease.

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SECTION 18. General Covenants. The City covenants and agrees with the holders of the Bonds that as long as any of the Bonds remain Outstanding and unpaid as to either principal or interest:

- (a) The City will maintain the System in good repair and working order and will operate the same efficiently and will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Michigan, and the City's Charter and ordinances.
- (b) The City will keep proper books of record and account separate from all other records and accounts of the City, in which shall be made full and correct entries of all transactions relating to the System in accordance with state law. The City shall have an annual audit of the books of record and account of the System for the preceding operating year made each year by an independent certified public accountant. The auditor shall comment on the manner in which the City is complying with the requirements of the Ordinance with respect to setting aside and investing moneys and meeting the requirements for acquiring and maintaining insurance. The audit shall be completed and so made available not later than six (6) months after the close of each operating year except as such period may be extended in conformance with the rules of the Michigan Department of Treasury.
- (c) The City will maintain and carry, for the benefit of the holders of the Bonds, insurance on all physical properties of the System and liability insurance, of the kinds and in the amounts normally carried by municipalities engaged in the operation of sewer systems, including self-insurance. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used, shall be used for the purpose of redeeming or purchasing Bonds.
- (d) The City will not sell, lease or dispose of the System, or any substantial part, until all of the Revenue Bonds have been paid in full, both as to principal and interest or provision made as herein provided. The City will operate the System as economically as possible, will make all repairs and replacements necessary to keep the System in good repair and working order, and will not do or suffer to be done any act which would affect the System in such a way as to have a material adverse effect on the security for the Revenue Bonds.
- (e) The City will not grant any franchise or other rights to any person, firm or corporation to operate a System that will compete with the System and the City will not operate a system that will compete with the System.
- (f) The City will cause the Series 2020 Project to be acquired and constructed promptly and in accordance with the plans and specifications therefor.
- (g) The City shall, to the extent permitted by law, take all actions within its control necessary to maintain the exclusion of the interest on the Series 2020 Bond from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended, including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of bond proceeds and moneys deemed to be bond proceeds, and to prevent the Series 2020 Bond from being or becoming a "private activity bond" as that term is used in Section 141 of the Internal Revenue Code.

SECTION 19. Conditions Permitting Issuance of Senior or Prior Lien Bonds. The City reserves the right to issue Additional Revenue Bonds of senior or prior standing and priority of lien on the Net Revenues of the System to the Series 2020 Bond (the "Senior Lien Bonds"). If Senior Lien Bonds are issued, then Net Revenues of the System would be used first to pay debt service on the Senior Lien Bonds prior to providing for payment of the Series 2020 Bond.

SECTION 20. Additional Revenue Bonds. The right is reserved in accordance with the provisions of Act 94, to issue Additional Revenue Bonds payable from the Revenues of the System which shall be of equal standing and priority of lien on the Net Revenues of the System with the Series 2020 Bond, or senior or prior standing and priority of lien as described in Section 19 above, but only for the following purposes and under the following terms and conditions:

- (a) To complete the Series 2020 Project in accordance with the plans and specifications for the Series 2013 Project. Such Additional Revenue Bonds shall not be authorized unless the engineers in charge of construction shall execute a certificate evidencing the fact that additional funds are needed to complete the Series 2020 Project in accordance with the plans and specifications and stating the amount that will be required to complete the Series 2020 Project. If such certificate is executed and filed with the City, it shall be the duty of the City to provide for and issue Additional Revenue Bonds in the amount stated in the certificate to be necessary to complete the Series 2020 Project in accordance with the plans and specifications, plus the amount necessary to pay costs of issuance, or to provide for part or all of such amount from other sources.
- (b) For subsequent repairs, extensions, enlargements and improvements to the System, or for the purpose of refunding any Outstanding Revenue Bonds, or for both purposes, and paying costs of issuing such bonds including deposits which may be required to be made to a bond reserve account, if any. Bonds shall not be issued pursuant to this subparagraph (b) unless the Adjusted Net Revenues of the System for the preceding twelve-month operating year shall be at least equal to one hundred percent (100%) of the maximum amount of principal and interest thereafter maturing in any operating year on the then Outstanding Revenue Bonds and on the Additional Revenue Bonds then being issued. If the Additional Revenue Bonds are to be issued in whole or in part for refunding Outstanding Revenue Bonds, the annual principal and interest requirements shall be determined by deducting from the principal and interest requirements for each operating

year the annual principal and interest requirements of any Revenue Bonds to be refunded from the proceeds of the Additional Revenue Bonds. For purposes of this subparagraph (b) the City may elect to use as the last preceding operating year any operating year ending not more than sixteen months prior to the date of delivery of the Additional Revenue Bonds. Determination by the City as to existence of conditions permitting the issuance of Additional Revenue Bonds shall be conclusive. No Additional Revenue Bonds shall be issued pursuant to the authorization contained in this subparagraph if the City shall then be in default in making its required payments to the Operation and Maintenance Account or the Revenue Bond Redemption Account.

- (c) For refunding all or a part of the Outstanding Revenue Bonds and paying costs of issuing such Additional Revenue Bonds including deposits which may be required to be made to a bond reserve account, if any. No Additional Revenue Bonds shall be issued pursuant to this subsection unless the maximum amount of principal and interest maturing in any operating year after giving effect to the refunding shall be less than the maximum amount of principal and interest maturing in any operating year prior to giving effect to the refunding.

**SECTION 21. Amendments Without Consent of Registered Owners.** The City, from time to time and at any time, subject to the conditions and restrictions contained in this Ordinance, may enact one or more supplemental or amendatory ordinances or resolutions or both which thereafter shall form a part hereof, for any one or more or all of the following purposes:

- (a) To issue Additional Revenue Bonds or junior lien bonds;
- (b) To add to the covenants and agreements of the City contained in this Ordinance other covenants and agreements thereafter to be observed, or to surrender, restrict or limit any right or power herein reserved to or conferred upon the City;
- (c) To make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provisions contained in this Ordinance, or in regard to matters or questions arising under this Ordinance, as the City may deem necessary or desirable and not inconsistent with this Ordinance and which shall not have material, adverse effect on the interests of the registered owners of the Outstanding Revenue Bonds; and
- (d) To increase the size or scope of the System.

Any amendment or supplemental ordinance or resolution authorized by the provisions of this Section may be enacted by the City without the consent of or notice to the registered owners of any of the Outstanding Revenue Bonds, notwithstanding any of the provisions of Section 24 below.

**SECTION 22. Amendments Requiring Consent of Registered Owners.** The City, from time to time and at any time, subject to the conditions and restrictions contained in this Ordinance, may enact one or more supplemental or amendatory ordinances or resolutions or both which thereafter shall form a part hereof, 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 (i) extend the fixed maturity of any bond, change a mandatory redemption requirement for any bond, or reduce the rate of interest thereon or extend the time of payment of interest, or reduce the amount of the principal thereof, or reduce or extend the time for payment of any premium payable on the redemption thereof, without the consent of the registered owner of each bond so affected, or (ii) deprive the registered owners of the Outstanding Revenue Bonds (except as aforesaid) of the right to payment of the bonds from the Net Revenues, without the consent of the registered owners of all the Outstanding Revenue Bonds.

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

**SECTION 23. Negotiated Sale; Application to EGLE and Michigan Finance Authority.** The City Council has considered the option of selling the Series 2020 Bond through a competitive sale and a negotiated sale and determines that it is in the best interest of the City to negotiate the sale of the Series 2020 Bond to the Michigan Finance Authority because the State Revolving Fund financing program provides significant savings to the City compared to competitive sale in the municipal bond market. Either of the Authorized Officers are authorized to apply to the Michigan Finance Authority and to the EGLE for placement of the Series 2020 Bond with the Michigan Finance Authority. The actions taken by the Authorized Officers with respect to the Series 2020 Bond prior to the adoption of this ordinance are ratified and confirmed. The Authorized Officers are authorized to sell the Series 2020 Bond to the Michigan Finance Authority and to execute and deliver the Purchase Contract, the Supplemental Agreement and the Issuer's Certificate in the forms provided by the Michigan Finance Authority. Either of the Authorized Officers are further authorized to execute and deliver such contracts, documents and certificates as are necessary or advisable to qualify the Series 2020 Bond for the State Revolving Fund program.

**SECTION 24. Approval of Bond Details.** The Authorized Officers are authorized to determine final bond details for the Series 2020 Bond to the extent necessary or convenient to complete the transaction authorized by this ordinance, to exercise the authority and make the determinations authorized pursuant to Section 7a(1)(c) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, and other matters.



SECTION 25. Repeal, Savings Clause. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

SECTION 26. Severability; Paragraph Headings; and Conflict. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance. The paragraph headings in this ordinance are furnished for convenience of reference only and shall not be considered to be part of this ordinance.

SECTION 27. Publication and Recordation. This Ordinance shall be published in full in the *Argus-Press* or other newspaper of general circulation in the City qualified under State law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the City and such recording authenticated by the signatures of the Mayor and the City Clerk.

SECTION 28. Effective Date. This Ordinance is hereby determined to be immediately necessary for the preservation of the peace, health and safety of the residents of the City, and is adopted to provide for the adequate operation of the System, which was established under Act 94 and therefore, pursuant to Section 6 of said Act 94, shall be in full force and effect from and after its passage and publication as required by law.

Adopted and signed this 20th day of April, 2020.

Motion supported by Councilmember Law.

Roll Call Vote.

AYES: Councilmember Pidek, Mayor Pro-Tem Osika, Councilmembers Fear, Law, Haber, Bailey, and Mayor Eveleth.

NAYS: None.

#### **Ordinance Adoption – Bonding for SRF Financing – WWTP**

Motion by Mayor Pro-Tem Osika to adopt the following ordinance to authorize and provide for the issuance of revenue bonds for SRF financing of the cost of acquisition and construction of improvements to the Waste Water Treatment Plant under the provisions of Act 94, Public Acts of Michigan, 1933, as amended:

#### **ORDINANCE NO. 807**

**AN ORDINANCE TO PROVIDE FOR THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO THE WASTEWATER TREATMENT SYSTEM OF THE CITY OF OWOSSO; TO PROVIDE FOR THE ISSUANCE OF REVENUE BONDS; TO PRESCRIBE THE FORM OF THE REVENUE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE REVENUE BONDS; TO PROVIDE FOR SECURITY FOR THE REVENUE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE REVENUE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE REVENUE BONDS AND THE SYSTEM.**

THE CITY OF OWOSSO ORDAINS:

SECTION 1. Definitions. Whenever used in this Ordinance, except when otherwise indicated by the context, the following terms when capitalized shall have the following meanings:

- (a) “Act 94” means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) “Additional Revenue Bonds” means Revenue Bonds, including Revenue Bonds of prior and senior or equal standing and priority of lien with the Series 2020 Bond, issued under Section 20 of this Ordinance.
- (c) “Adjusted Net Revenues” means for any operating year the excess of revenues over expenses for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds and payments to the City in lieu of taxes, to which may be made the following adjustments.
  - (i) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of Additional Revenue Bonds or to be placed into effect before the time principal or interest on the Additional Revenue Bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.
  - (ii)

Revenues may be augmented by amounts which may be derived from rates and charges to be paid (a) as a result of new customers who have been identified by an agreement to purchase service from the System who had not been serviced during the preceding twelve months or (b) as a result of any other new customer or expansion of service to any existing customers or (c) as a result of potential customers which exist in a new service area who will be serviced by the acquisition of the repairs, extensions, enlargements and improvements to said System which have been made during the preceding twelve months or which will be acquired in whole or in part from the proceeds of Additional Revenue Bonds.

(iii) If there is a bond reserve account to be funded from the proceeds of Additional Revenue Bonds, then the Revenues may be augmented by an amount equal to the investment income representing interest on investments estimated to be received each operating year from the addition to the bond reserve account to be funded from the proceeds of the Additional Revenue Bonds being issued.

The adjustment of revenues and expenses by the factors set forth in (i), (ii) and (iii) above shall be reported upon by professional engineers or certified public accountants or other experts not in the regular employment of the City.

- (d) "Authorized Officer" means the Finance Director or/and the Public Utilities Director of the City or, in the event that neither of them are available at the time that it becomes necessary to take actions directed or authorized under this Ordinance, the City Manager or a person designated by the Finance Director or the City Manager.
- (e) "Bonds" means any Bonds which may be issued by the City for the purpose of making repairs, extensions, enlargements and improvements to the System, for the payment of which the City intends to use Net Revenues.
- (f) "City" means the City of Owosso, County of Shiawassee, State of Michigan.
- (g) "EGLE" means the Michigan Department of Environment, Great Lakes and Energy, or any successor agency which administers loans from the State of Michigan State Revolving Fund (SRF) program.
- (h) "Ordinance" refers collectively to this ordinance, and any other ordinance amendatory to or supplemental to this Ordinance.
- (i) "Outstanding Revenue Bonds" means, as of any given date, Series 2020 Bond and any Additional Revenue Bonds of equal or prior standing hereafter issued and delivered under this Ordinance except:
  - (i) Bonds (or portions of Bonds) paid off at or prior to such date;
  - (ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys or Sufficient Government Obligations equal to the principal amount or redemption price, as the case may be, with interest to the date of maturity or redemption date, shall be held in trust under this Ordinance and set aside for such payment or redemption (whether at or prior to the maturity or redemption date) provided that if such Bonds are to be redeemed, notice of such redemption shall have been given as provided in the Bond or provision shall have been made for the giving of such notice; and
  - (iii) Bonds in lieu of or in substitution for which other Bonds shall have been delivered.
- (j) "Revenue Bonds" means, as of any given date, the Series 2020 Bond and any Additional Revenue Bonds of equal or prior standing hereafter issued and delivered under this Ordinance.
- (k) "Revenues" and "Net Revenues" mean the revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to "Revenues" the earnings derived from the investment of moneys in the various funds and accounts established by this Ordinance, and other revenues derived from or pledged to operation of the System.
- (l) "Series 2020 Bond" means the Wastewater Treatment System Revenue Bond, Series 2020 authorized by this Ordinance.
- (m) "Series 2020 Project" means the improvements and repairs to the City's wastewater treatment plant including installation of new headworks screw pumps and motors, and grit chamber mechanical parts, together with any appurtenances and attachments and any related site improvements.
- (n) "Sufficient Government Obligations" means direct obligations of the United States of America or obligations the principal and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments upon which, without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the Bonds and the principal and redemption premium, if any, on the Bonds as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any Bond is to be called for redemption prior to maturity, irrevocable instructions to call the Bond for redemption shall be given.
- (o) "System" means the entire Wastewater Treatment System of the City including the facilities acquired and constructed with the proceeds of the Series 2020 Bond, and such other facilities as are now existing including all appurtenances, enlargements, extensions, repairs and improvements thereto hereafter made.

SECTION 2. Necessity; Approval of Plans and Specifications. It is hereby determined to be a necessary public purpose of the City to acquire and construct the Series 2020 Project in accordance with the plans and specifications prepared by the City's consulting engineers, which plans and specifications are hereby approved.

SECTION 3. Costs; Useful Life. The cost of the Series 2020 Project is estimated to be not-to-exceed Two Million One Hundred Forty-Five Thousand Dollars (\$2,145,000) including the payment of incidental expenses as specified in Section 4 of this ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Series 2020 Project is estimated to be not less than twenty-five (25) years.

SECTION 4. Payment of Project Cost; Series 2020 Bond Authorized. To pay the cost of acquiring and constructing the Series 2020 Project, including payment of legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2020 Bond, the City shall borrow a sum of not-to-exceed Two Million One Hundred Forty-Five Thousand Dollars (\$2,145,000), as finally determined by an Authorized Officer at the time of sale of the Series 2020 Bond, and issue its Series 2020 Bond pursuant to the provisions of Act 94. The remaining cost of the Series 2020 Project, if any, shall be defrayed from City funds on hand and legally available for such use.

SECTION 5. Issuance of Series 2020 Bond; Details. The Series 2020 Bond shall be designated as the "WASTEWATER TREATMENT SYSTEM REVENUE BOND, SERIES 2020." The Series 2020 Bond shall be payable solely out of the Net Revenues and other moneys pledged under this Ordinance, and shall not be a general obligation of the City.

The Series 2020 Bond shall be issued in the form of one or more fully-registered, nonconvertible bonds, dated as of the date of delivery, payable in annual principal installments on October 1 from October 1, 2021 through October 1, 2040 or on such other dates as determined by the order of the EGLE and approved by the Michigan Finance Authority and an Authorized Officer, provided that the final payment on the Series 2020 Bond shall occur within the period of usefulness of the Series 2020 Project as set forth in Section 3 of this Ordinance. Final determination of the Principal Amount and the payment dates and amounts of principal installments of the Series 2020 Bond shall be evidenced by execution of a Purchase Contract (the "Purchase Contract") between the City and the Michigan Finance Authority providing for sale of the Series 2020 Bond, and an Authorized Officer is authorized and directed to execute and deliver the Purchase Contract.

The Series 2020 Bond shall bear interest at a rate or rates to be determined by an Authorized Officer at the time of execution of the Purchase Contract, but in any event not exceeding the maximum amount permitted by law, payable semiannually beginning October 1, 2020 or on such other dates as determined in the Purchase Contract. In addition, if required by the Michigan Finance Authority, the Series 2020 Bond will bear additional interest, under the terms required by Michigan Finance Authority, in the event of a default by the City in the payment of principal or interest on the Series 2020 Bond when due. The Series 2020 Bond principal amount is expected to be drawn down by the City periodically, and interest on each installment of the principal amount shall accrue from the date such principal installment is drawn down by the City. Principal installments of the Series 2020 Bond will be subject to prepayment prior to maturity as permitted by the Michigan Finance Authority and approved by an Authorized Officer.

The Mayor and City Clerk are authorized to execute the Series 2020 Bond by manual or facsimile signature. At least one signature on the Series 2020 Bond shall be a manual signature. The Series 2020 Bond may be transferred by the bondholder as provided in the Series 2020 Bond as executed.

SECTION 6. Payment of Series 2020 Bond; Security. The Series 2020 Bond and the interest thereon shall be payable solely and only from the Net Revenues, and to secure such payment, there is hereby created a statutory lien upon the whole of the Net Revenues which shall continue until payment in full of the principal of and interest on the Series 2020 Bond, or, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of the principal of and interest on the Series 2020 Bond to maturity, or, if called for redemption, to the date fixed for redemption, together with the amount of the redemption premium, if any. Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentence, the statutory lien shall be terminated with respect to the Series 2020 Bond, the holder of the Series 2020 Bond shall have no further rights under this Ordinance except for payment from the deposited funds, and the Series 2020 Bond shall be considered to be defeased and shall no longer be considered to be outstanding under this Ordinance.

SECTION 7. State Revenue Sharing Pledge. If required by the Michigan Finance Authority, as additional security for repayment of the Series 2020 Bond, the City Council agrees to pledge the state revenue sharing payments that the City is eligible to receive from the State of Michigan under Act 140, Public Acts of Michigan, 1971, as amended, to the Michigan Finance Authority as purchaser and holder of the Series 2020 Bond. Either of the Authorized Officers are authorized to execute and deliver a revenue sharing pledge agreement between the City and the Michigan Finance Authority.

SECTION 8. Bondholders' Rights; Receiver. The holder or holders of the Revenue Bonds representing in the aggregate not less than twenty percent (20%) of the entire principal amount of Outstanding Revenue Bonds, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the City, including the fixing of sufficient rates, the collection of Revenues, and the proper segregation and application of the Revenues of the System. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part of the System.

If there is a default in the payment of the principal of or interest on the Revenue Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the City and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the City more particularly set forth herein and in Act 94.

The holder or holders of the Revenue Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Revenue Bonds and the security therefor.

**SECTION 9. Management; Operating Year.** The operation, repair and management of the System and the acquisition and construction of the Series 2020 Project shall continue to be under the supervision and control of the City Council. The City Council may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System. The City Council may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The System shall be operated on the basis of an operating year which shall coincide with the City's fiscal year.

**SECTION 10. No Free Service or Use.** No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the City.

**SECTION 11. Fixing and Revising Rates; Rate Covenant.** The rates and charges for service furnished by and the use of the System and the methods of collection and enforcement of the collection of the rates shall be those in effect on the date of adoption of this Ordinance. The rates now in effect are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the Bonds as the same become due and payable, and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. It is hereby covenanted and agreed to fix and maintain rates for services furnished by the System at all times sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, and to provide for all other obligations, expenditures and funds for the System required by law including, specifically to provide for payment of principal of, interest, and premium, if any, on the Bonds.

The rates and charges for operation, maintenance, replacement and administration hereby established shall be based upon a methodology which complies with the applicable federal and state statutes and regulations. The amount of the rates and charges shall be sufficient to provide for debt service and for the expenses of operation, maintenance, replacement and administration of the system as necessary to preserve the same in good repair and working order. The amount of the rates and charges shall be reviewed annually and revised when necessary to ensure system expenses are met and that all users pay their proportionate share of operation, maintenance, equipment replacement and administration expenses.

**SECTION 12. Funds and Accounts; Flow of Funds.** All Revenues of the System shall be set aside as collected and credited to an account to be designated WASTEWATER TREATMENT SYSTEM RECEIVING ACCOUNT (the "Receiving Account"). The Revenues credited to the Receiving Account are pledged for the purpose of the following funds and shall be transferred or debited from the Receiving Account periodically in the manner and at the times and in the order of priority hereinafter specified, provided that no transfer shall be required to be made to a fund on any date if the amount on deposit in the fund is sufficient to meet the requirements of this Ordinance:

A. **OPERATION AND MAINTENANCE ACCOUNT:** Out of the Revenues credited to the Receiving Account there shall be first set aside in, or credited to, the OPERATION AND MAINTENANCE ACCOUNT (the "Operation and Maintenance Account"), periodically a sum sufficient to provide for the payment of expenses of administration and operation of the System and such current expenses for the maintenance of the System as may be necessary to preserve the System in good repair and working order.

A budget, showing in detail the estimated costs of administration, operation and maintenance of the System for the next ensuing operating year, shall be prepared by the City Council at least 30 days prior to the commencement of each ensuing operating year. No payments shall be made to the City from moneys credited to the Operation and Maintenance Account except for services directly rendered to the System by the City or its personnel.

B. **REVENUE BOND AND INTEREST REDEMPTION ACCOUNT:** There shall be established and maintained a separate depository account designated REVENUE BOND AND INTEREST REDEMPTION ACCOUNT (the "Revenue Bond Redemption Account"), the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of, redemption premiums (if any) and interest on the Revenue Bonds.

Out of the Revenues remaining in the Receiving Account, after provision for the Operation and Maintenance Account, there shall be set aside periodically in the Revenue Bond Redemption Account a sum sufficient to provide for the payment when due of the current principal of and interest on such Revenue Bonds including any amounts necessary to maintain any reserve account established within the Revenue Bond Redemption Account.

The amount to be set aside for the payment of principal and interest on any date shall not exceed the amount which, when added to the money on deposit in the Revenue Bond Redemption Account, including investment income thereon and on any bond reserve account which may be established on a future date, is necessary to pay principal and interest due on the Revenue Bonds on the next succeeding principal payment date.

The City may establish a separate bond reserve account in the Revenue Bond Redemption Account. If the City issues senior lien revenue bonds as described in this Ordinance, then the City may establish a senior lien Revenue Bond Redemption Account.

- C. **REPLACEMENT AND IMPROVEMENT ACCOUNT:** Out of the remaining Revenues in the Receiving Account, after meeting the requirements of the Operation and Maintenance Account and the Revenue Bond Redemption Account, including any reserve account maintained therein, there may be next set aside in or credited to the REPLACEMENT AND IMPROVEMENT ACCOUNT (the "Replacement and Improvement Account"), which Replacement and Improvement Account may have several subaccounts therein, such sums periodically as the City may deem advisable to be used for additions, improvements, enlargements or extensions to the System, including the planning thereof.
- D. **GENERAL OBLIGATION BOND PAYMENT ACCOUNT:** Out of the Revenues remaining in the Receiving Account after meeting the requirements of the Operation and Maintenance Account, the Revenue Bond Redemption Account, and the Replacement and Improvement Account, there shall be next set aside in, or credited to, the General Obligation Bond Payment Account, amounts which shall be proportionately sufficient to provide for payment of principal, interest and premiums, if any, on any general obligation bonds issued by the City for improvements to the System. Amounts in the General Obligation Bond Payment Account shall be withdrawn as necessary to pay the principal of and interest and premium on the general obligation bonds issued by the City as the same become due; the moneys withdrawn for payment of the general obligation bonds issued by the City shall be deposited in the Debt Retirement Account created for the general obligation bonds, if established.
- E. **SURPLUS MONEYS:** Thereafter, any Revenues in the Receiving Account after satisfying all the foregoing requirements of this Section may, at the discretion of the City, remain in the Receiving Account, or be transferred to the Replacement and Improvement Account, or be used for any other purpose permitted by law.

**SECTION 13. Priority of Funds.** In the event the moneys in the Receiving Account are insufficient to provide for the current requirements of the Operation and Maintenance Account, the Revenue Bond Redemption Account, the Replacement and Improvement Account or the General Obligation Bond Payment Account, any moneys or securities in other funds of the System, except the proceeds of sale of Bonds, shall be credited or transferred, first, to the Operation and Maintenance Account, second to the Revenue Bond Redemption Account, including any reserve account maintained therein, third, to the Replacement and Improvement Account, and finally, to the General Obligation Bond Payment Account.

**SECTION 14. Depository and Funds on Hand.** Pursuant to Section 24 of Act 94, moneys in the several funds and the accounts established pursuant to this Ordinance, except moneys in either the Revenue Bond Payment Account (including any bond reserve account which may be established on a future date) or the General Obligation Bond Payment Account (either, a "Bond Payment Account") may be kept in one or more bank accounts at a bank or banks designated by resolution of the City, and if kept in one bank account the moneys shall be allocated among the several funds on the books and records of the City in the manner and at the times provided in this Ordinance.

**SECTION 15. Investments.** Moneys in the funds and accounts established herein and moneys derived from the proceeds of sale of the Bonds may be invested by the City Treasurer on behalf of the City in the obligations and instruments permitted for investment by Section 24 of Act 94, as the same may be amended from time to time. If the moneys invested are kept in one account, as provided in this Ordinance, then the monies shall be allocated among the several funds on the books and records of the City in the manner and at the times provided in this Ordinance. Investment of moneys in a Bond Payment Account being accumulated for payment of the next maturing principal or interest payment of Bonds shall be limited to obligations bearing maturity dates prior to the date of the next maturing principal or interest payment on such Bonds. In the event investments are made, any securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds or account from which the purchase was made. Profit realized or interest income earned on investment of funds in the Receiving Account, Operation and Maintenance Account and Replacement and Improvement Account shall be deposited in or credited to the Receiving Account at the end of each fiscal year. Profit realized on interest income earned on investment of moneys in a Bond Payment Account shall be credited as received to such Bond Payment Account.

**SECTION 16. Bond Proceeds.** The proceeds of the sale of the Series 2020 Bond as received by the City shall be deposited in an account separate from other money of the City and held in a bank or banks qualified to act as depository of the proceeds of sale under the provisions of Section 15 of Act 94 designated "2020 SRF #5691-01 PROJECT CONSTRUCTION ACCOUNT" (the "2020 Construction Account"). Moneys in the 2020 Construction Account shall be applied solely in payment of the cost of the Series 2020 Project including any engineering, legal and other expenses incident thereto and to the costs of issuance of the Series 2020 Bond. Any balance remaining in the 2020 Construction Account after completion of the Series 2020 Project may be used for any other improvements to the System if such use is permitted by state law and will not cause the interest on the Series 2020 Bond to be included in gross

income for federal income tax purposes within the meaning of the Internal Revenue Code. Any remaining balance shall be paid into the Revenue Bond Redemption Account and used as permitted by state law.

SECTION 17. Revenue Bond Form. The Series 2020 Bond shall be in substantially the following form subject to such changes, including references to additional security, as may be required by the Michigan Finance Authority:

\*\*\*\*\*

[FORM OF BOND TO BE COMPLETED AFTER BOND SALE]  
UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF SHIAWASSEE  
CITY OF OWOSSO  
WASTEWATER TREATMENT SYSTEM REVENUE BOND, SERIES 2020  
SRF #5691-01

Registered Owner: Michigan Finance Authority  
Principal Amount: [amount]  
Date of Original Issue: [date]

The CITY OF OWOSSO, County of Shiawassee, State of Michigan (the "City" or the "Issuer"), for value received, acknowledges itself to owe, and for value received hereby promises to pay, but only out of the hereinafter described Net Revenues of the City's Wastewater Treatment System (hereinafter defined), to the Michigan Finance Authority (the "Authority"), or registered assigns, the Principal Amount shown above, or such portion thereof as shall have been advanced to the City pursuant to a Purchase Contract between the City and the Authority and a Supplemental Agreement by and among the City, the Authority and the State of Michigan acting through the Department of Environment, Great Lakes and Energy, in lawful money of the United States of America, unless prepaid prior thereto as hereinafter provided.

During the time the Principal Amount is being drawn down by the City under this bond, the Authority will periodically provide to the City a statement showing the amount of principal that has been advanced and the date of each advance, which statement shall constitute prima facie evidence of the reported information; provided that no failure on the part of the Authority to provide such a statement or to reflect a disbursement or the correct amount of a disbursement shall relieve the City of its obligation to repay the outstanding Principal Amount actually advanced, all accrued interest thereon, and any other amount payable with respect thereto in accordance with the terms of this bond.

The Principal Amount shall be payable on the dates and in the annual principal installment amounts set forth on Schedule I attached hereto and made a part hereof, as Schedule I may be adjusted if less than \$[amount] is disbursed to the City, or if the City prepays a portion of the Principal Amount as provided below with the prior written consent of the Authority, with interest on the principal installments from the date each installment is delivered to the holder hereof until paid at the rate of 2.00% per annum. Interest is first payable on [date], and semiannually thereafter, and principal is payable on the first day of [month] commencing [date] (as identified in the Purchase Contract) and annually thereafter.

Principal installments of this bond are subject to prepayment by the City prior to maturity only with the prior written consent of the Authority and on such terms as may be required by the Authority.

Notwithstanding any other provision of this bond, as long as the Authority is the owner of this bond, (a) this bond is payable as to principal, premium, if any, and interest at [Bank], or at such other place as shall be designated in writing to the City by the Authority (the "Authority's Depository"); (b) the City agrees that it will deposit with the Authority's Depository payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; in the event that the Authority's Depository has not received the City's deposit by 12:00 noon on the scheduled day, the City shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment; and (c) written notice of any redemption of this bond shall be given by the City and received by the Authority's Depository at least 40 days prior to the date on which such redemption is to be made.

Additional Interest

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the Authority's cost of providing funds (as determined by the Authority) to make payment on the bonds of the Authority issued to provide funds to purchase this bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the Authority has been fully reimbursed for all costs incurred by the Authority (as determined by the Authority) as a consequence of the City's default. Such additional interest shall be payable on the interest payment date following demand of the Authority. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the Authority) the investment of amounts in the reserve account established by the Authority for the bonds of the Authority issued to provide funds to purchase this bond fails to provide sufficient available funds

(together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the Authority issued to fund such account, the City shall and hereby agrees to pay on demand only the City's pro rata share (as determined by the Authority) of such deficiency as additional interest on this bond.

For prompt payment of principal and interest on this bond, the City has irrevocably pledged the revenues of its Wastewater Treatment System, including all appurtenances, extensions and improvements thereto (the "System"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory lien thereon is hereby recognized and created.

This bond is a single, fully-registered, non-convertible bond issued in the Principal Amount pursuant to Ordinance No. [XX] duly adopted by the City Council of the City (the "Ordinance"), and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying the cost of acquiring and constructing improvements to the System.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of superior and equal standing may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinance. The Ordinance is on file at the office of the City Clerk and reference is made to the Ordinance and any and all supplements thereto and modifications and amendments thereof, if any, and to Act 94 for a more complete description of the pledges and covenants securing this bond, the nature, extent and manner of enforcement of such pledges, the rights and remedies of the registered owner of this bond with respect thereto and the terms and conditions upon which this bond is issued and may be issued thereunder.

THIS BOND IS A SELF-LIQUIDATING BOND AND IS NOT A GENERAL OBLIGATION OF THE CITY AND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN ANY CONSTITUTIONAL, STATUTORY OR CHARTER LIMITATION, AND IS PAYABLE BOTH AS TO PRINCIPAL AND INTEREST, SOLELY FROM THE NET REVENUES OF THE SYSTEM AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE ORDINANCE. THE PRINCIPAL AND INTEREST ON THIS BOND ARE SECURED BY THE STATUTORY LIEN HEREINBEFORE DESCRIBED.

**The City has reserved the right, on the conditions stated in the Ordinance, to issue additional bonds of prior and senior or equal standing and priority of lien with this bond as to the Net Revenues.**

The City has covenanted and agreed, and does hereby covenant and agree, to fix and maintain at all times while any bonds payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the principal of and interest on the bonds payable from the Net Revenues of the System, as and when the same shall become due and payable, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

This bond is transferable only upon the books of the City by the registered owner in person or the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the City, duly executed by the registered owner or the registered owner's attorney, and thereupon a new bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance, and upon payment of the charges, if any, therein prescribed.

It is hereby certified and recited that all acts, conditions and things required by law to be done precedent to and in the issuance of this bond have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the City, by its City Council, has caused this bond to be executed by its Mayor and its City Clerk and the corporate seal or a facsimile to be impressed or printed hereon, all as of the Date of Original Issue.

CITY OF OWOSSO  
By \_\_\_\_\_ [Mayor to sign bond]  
Mayor

(seal)  
Countersigned:  
Its \_\_\_\_\_ [City Clerk to sign bond]  
City Clerk

Name of Issuer: City of Owosso  
Project No.: SRF 5691-01  
Approved Amt: \$[amount]

SCHEDULE I

Based on the schedule provided below unless revised as provided in this paragraph, repayment of principal of the bond shall be made until the full amount advanced to the Issuer is repaid. In the event the Order of Approval issued by the Department of Environment, Great Lakes and Energy (the "Order") approves a principal amount of assistance less than the amount of the bond delivered to the Authority, the Authority shall only disburse principal up to the amount stated in the Order. In the event (1) that the payment schedule approved by the Issuer and described below provides for payment of a total principal amount greater than the amount of assistance approved by the Order, or (2) that less than the principal amount of assistance approved by the Order is disbursed to the Issuer by the Authority, the Authority shall prepare a new payment schedule which shall be effective upon receipt by the Issuer.

Due Date	Amount of Principal Installment Due
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Interest on the bond shall accrue on that portion of principal disbursed by the Authority to the Issuer from the date such portion is disbursed, until paid, at the rate of 2.00% per annum, payable [date], and semi-annually thereafter.

The Issuer agrees that it will deposit with [Bank], or at such other place as shall be designated in writing to the Issuer by the Authority (the "Authority's Depository") payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise. In the event that the Authority's Depository has not received the Issuer's deposit by 12:00 noon on the scheduled day, the Issuer shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment.

\* Not to exceed amount. Loan reductions at close out will result in a proportional decrease.

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SECTION 18. General Covenants. The City covenants and agrees with the holders of the Bonds that as long as any of the Bonds remain Outstanding and unpaid as to either principal or interest:

- (a) The City will maintain the System in good repair and working order and will operate the same efficiently and will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Michigan, and the City's Charter and ordinances.
- (b) The City will keep proper books of record and account separate from all other records and accounts of the City, in which shall be made full and correct entries of all transactions relating to the System in accordance with state law. The City shall have an annual audit of the books of record and account of the System for the preceding operating year made each year by an independent certified public accountant. The auditor shall comment on the manner in which the City is complying with the requirements of the Ordinance with respect to setting aside and investing moneys and meeting the requirements for acquiring and maintaining insurance. The audit shall be completed and so made available not later than six (6) months after the close of each operating year except as such period may be extended in conformance with the rules of the Michigan Department of Treasury.
- (c) The City will maintain and carry, for the benefit of the holders of the Bonds, insurance on all physical properties of the System and liability insurance, of the kinds and in the amounts normally carried by municipalities engaged in the operation of wastewater treatment systems, including self-insurance. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used, shall be used for the purpose of redeeming or purchasing Bonds.
- (d) The City will not sell, lease or dispose of the System, or any substantial part, until all of the Revenue Bonds have been paid in full, both as to principal and interest or provision made as herein provided. The City will operate the System as economically as possible, will make all repairs and replacements necessary to keep the System in good repair and working order, and will not do or suffer to be done any act which would affect the System in such a way as to have a material adverse effect on the security for the Revenue Bonds.
- (e) The City will not grant any franchise or other rights to any person, firm or corporation to operate a System that will compete with the System and the City will not operate a system that will compete with the System.
- (f) The City will cause the Series 2020 Project to be acquired and constructed promptly and in accordance with the plans and specifications therefor.
- (g) The City shall, to the extent permitted by law, take all actions within its control necessary to maintain the exclusion of the interest on the Series 2020 Bond from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended, including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and



investment of bond proceeds and moneys deemed to be bond proceeds, and to prevent the Series 2020 Bond from being or becoming a "private activity bond" as that term is used in Section 141 of the Internal Revenue Code.

**SECTION 19. Conditions Permitting Issuance of Senior or Prior Lien Bonds.** The City reserves the right to issue Additional Revenue Bonds of senior or prior standing and priority of lien on the Net Revenues of the System to the Series 2020 Bond (the "Senior Lien Bonds"). If Senior Lien Bonds are issued, then Net Revenues of the System would be used first to pay debt service on the Senior Lien Bonds prior to providing for payment of the Series 2020 Bond.

**SECTION 20. Additional Revenue Bonds.** The right is reserved in accordance with the provisions of Act 94, to issue Additional Revenue Bonds payable from the Revenues of the System which shall be of equal standing and priority of lien on the Net Revenues of the System with the Series 2020 Bond, or senior or prior standing and priority of lien as described in Section 19 above, but only for the following purposes and under the following terms and conditions:

- (a) To complete the Series 2020 Project in accordance with the plans and specifications for the Series 2013 Project. Such Additional Revenue Bonds shall not be authorized unless the engineers in charge of construction shall execute a certificate evidencing the fact that additional funds are needed to complete the Series 2020 Project in accordance with the plans and specifications and stating the amount that will be required to complete the Series 2020 Project. If such certificate is executed and filed with the City, it shall be the duty of the City to provide for and issue Additional Revenue Bonds in the amount stated in the certificate to be necessary to complete the Series 2020 Project in accordance with the plans and specifications, plus the amount necessary to pay costs of issuance, or to provide for part or all of such amount from other sources.
- (b) For subsequent repairs, extensions, enlargements and improvements to the System, or for the purpose of refunding any Outstanding Revenue Bonds, or for both purposes, and paying costs of issuing such bonds including deposits which may be required to be made to a bond reserve account, if any. Bonds shall not be issued pursuant to this subparagraph (b) unless the Adjusted Net Revenues of the System for the preceding twelve-month operating year shall be at least equal to one hundred percent (100%) of the maximum amount of principal and interest thereafter maturing in any operating year on the then Outstanding Revenue Bonds and on the Additional Revenue Bonds then being issued. If the Additional Revenue Bonds are to be issued in whole or in part for refunding Outstanding Revenue Bonds, the annual principal and interest requirements shall be determined by deducting from the principal and interest requirements for each operating year the annual principal and interest requirements of any Revenue Bonds to be refunded from the proceeds of the Additional Revenue Bonds. For purposes of this subparagraph (b) the City may elect to use as the last preceding operating year any operating year ending not more than sixteen months prior to the date of delivery of the Additional Revenue Bonds. Determination by the City as to existence of conditions permitting the issuance of Additional Revenue Bonds shall be conclusive. No Additional Revenue Bonds shall be issued pursuant to the authorization contained in this subparagraph if the City shall then be in default in making its required payments to the Operation and Maintenance Account or the Revenue Bond Redemption Account.
- (c) For refunding all or a part of the Outstanding Revenue Bonds and paying costs of issuing such Additional Revenue Bonds including deposits which may be required to be made to a bond reserve account, if any. No Additional Revenue Bonds shall be issued pursuant to this subsection unless the maximum amount of principal and interest maturing in any operating year after giving effect to the refunding shall be less than the maximum amount of principal and interest maturing in any operating year prior to giving effect to the refunding.

**SECTION 21. Amendments Without Consent of Registered Owners.** The City, from time to time and at any time, subject to the conditions and restrictions contained in this Ordinance, may enact one or more supplemental or amendatory ordinances or resolutions or both which thereafter shall form a part hereof, for any one or more or all of the following purposes:

- (a) To issue Additional Revenue Bonds or junior lien bonds;
- (b) To add to the covenants and agreements of the City contained in this Ordinance other covenants and agreements thereafter to be observed, or to surrender, restrict or limit any right or power herein reserved to or conferred upon the City;
- (c) To make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provisions contained in this Ordinance, or in regard to matters or questions arising under this Ordinance, as the City may deem necessary or desirable and not inconsistent with this Ordinance and which shall not have material, adverse effect on the interests of the registered owners of the Outstanding Revenue Bonds; and
- (d) To increase the size or scope of the System.

Any amendment or supplemental ordinance or resolution authorized by the provisions of this Section may be enacted by the City without the consent of or notice to the registered owners of any of the Outstanding Revenue Bonds, notwithstanding any of the provisions of Section 24 below.

SECTION 22. Amendments Requiring Consent of Registered Owners. The City, from time to time and at any time, subject to the conditions and restrictions contained in this Ordinance, may enact one or more supplemental or amendatory ordinances or resolutions or both which thereafter shall form a part hereof, 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 (i) extend the fixed maturity of any bond, change a mandatory redemption requirement for any bond, or reduce the rate of interest thereon or extend the time of payment of interest, or reduce the amount of the principal thereof, or reduce or extend the time for payment of any premium payable on the redemption thereof, without the consent of the registered owner of each bond so affected, or (ii) deprive the registered owners of the Outstanding Revenue Bonds (except as aforesaid) of the right to payment of the bonds from the Net Revenues, without the consent of the registered owners of all the Outstanding Revenue Bonds.

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

SECTION 23. Negotiated Sale; Application to EGLE and Michigan Finance Authority. The City Council has considered the option of selling the Series 2020 Bond through a competitive sale and a negotiated sale and determines that it is in the best interest of the City to negotiate the sale of the Series 2020 Bond to the Michigan Finance Authority because the State Revolving Fund financing program provides significant savings to the City compared to competitive sale in the municipal bond market. Either of the Authorized Officers are authorized to apply to the Michigan Finance Authority and to the EGLE for placement of the Series 2020 Bond with the Michigan Finance Authority. The actions taken by the Authorized Officers with respect to the Series 2020 Bond prior to the adoption of this ordinance are ratified and confirmed. The Authorized Officers are authorized to sell the Series 2020 Bond to the Michigan Finance Authority and to execute and deliver the Purchase Contract, the Supplemental Agreement and the Issuer's Certificate in the forms provided by the Michigan Finance Authority. Either of the Authorized Officers are further authorized to execute and deliver such contracts, documents and certificates as are necessary or advisable to qualify the Series 2020 Bond for the State Revolving Fund program.

SECTION 24. Approval of Bond Details. The Authorized Officers are authorized to determine final bond details for the Series 2020 Bond to the extent necessary or convenient to complete the transaction authorized by this ordinance, to exercise the authority and make the determinations authorized pursuant to Section 7a(1)(c) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, and other matters.

SECTION 25. Repeal, Savings Clause. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

SECTION 26. Severability; Paragraph Headings; and Conflict. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance. The paragraph headings in this ordinance are furnished for convenience of reference only and shall not be considered to be part of this ordinance.

SECTION 27. Publication and Recordation. This Ordinance shall be published in full in the *Argus-Press* or other newspaper of general circulation in the City qualified under State law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the City and such recording authenticated by the signatures of the Mayor and the City Clerk.

SECTION 28. Effective Date. This Ordinance is hereby determined to be immediately necessary for the preservation of the peace, health and safety of the residents of the City, and is adopted to provide for the adequate operation of the System, which was established under Act 94 and therefore, pursuant to Section 6 of said Act 94, shall be in full force and effect from and after its passage and publication as required by law.

Adopted and signed this 20th day of April, 2020.

Motion supported by Councilmember Fear.

Roll Call Vote.

AYES: Mayor Pro-Tem Osika, Councilmembers Law, Pidek, Haber, Fear, Bailey, and Mayor Eveleth.

NAYS: None.

**OPRA Development Agreement – 114 W. Main Street, Third Floor**

Motion by Councilmember Pidek to approve a development agreement with Woodworth Properties, LLC for the residential development project and corresponding tax abatement for the third floor of the property at 114 West Main Street as follows:

**RESOLUTION NO. 72-2020**

**RESOLUTION APPROVING THE OPRA DEVELOPMENT AGREEMENT FOR  
114 WEST MAIN STREET**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, awarded an Obsolete Property Tax Abatement certificate to Woodworth Properties, LLC (Owner) for the 3<sup>rd</sup> floor residential redevelopment project at 114 W Main Street at the regular council meeting of January 21, 2020; and

WHEREAS, the City of Owosso Tax Abatement Policy requires the Owner and the City sign a development agreement for any abatement granted; and

WHEREAS, the project includes the addition of seven (7) new downtown residential units with a total cost of \$813,200; and

WHEREAS, the redevelopment meets the requirements of the Tax Abatement Policy and serves to further the goals of the City's master plan and the DDA's downtown development goals.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

FIRST: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached, OPRA Development Agreement between the City of Owosso and Woodworth Properties, LLC for the third floor residential redevelopment project at 114 West Main Street.

Motion supported by Mayor Pro-Tem Osika.

Roll Call Vote.

AYES: Councilmembers Law, Haber, Pidek, Fear, Bailey, Mayor Pro-Tem Osika, and Mayor Eveleth.

NAYS: None.

**COMMUNICATIONS**

DDA/Main Street Board of Directors Resignation. Bobbi Fuller, Blossom Boutique.  
N. Bradley Hissong, Building Official. March 2020 Building Department Report.  
N. Bradley Hissong Building Official. March 2020 Code Violations Report.  
N. Bradley Hissong Building Official. March 2020 Inspection Report.  
Kevin D. Lenkart, Public Safety Director. March 2020 Police Report.  
Kevin D. Lenkart, Public Safety Director. March 2020 Fire Report.  
Employees Retirement System Board. Minutes of February 26, 2020.  
Parks & Recreation Commission. Minutes of March 3, 2020.

Councilmembers Law and Haber inquired if there would be a way for the City to override the lockdown if the Governor extends it any longer. The City Attorney noted that her actions have the force of State law, particularly in light of the fact that the Legislature affirmed her orders. There was discussion if the City could refuse to enforce all State orders, specifically the State's prohibition on using a lawn care service during the state of emergency. City Manager Henne indicated that he agreed that overgrown lawns are considered to be a health risk. He said he has twice called the Attorney General's Office about the situation but has received no response. He said he would really like more clarification from the State before proceeding. Councilmember Law expressed his concern that such problems only cost more to fix the longer they go on. He said he felt there was a precedent set by other jurisdictions for ignoring portions of the Executive Orders. Mayor Eveleth indicated his preference to wait until the May 4<sup>th</sup> meeting to see if the lockdown will even be extended.

Councilmember Pidek commended DDA/Main Street Director Josh Adams and the DDA for starting a conversation around what the reopening of the downtown will look like. He said he really liked the fact that people were thinking through the details prior to the reopening actually taking place and suggested a group of folks be gathered to think about the reopening of the City in general. Mayor Eveleth agreed.

**NEXT MEETING**

Monday, May 04, 2020

**BOARDS AND COMMISSIONS OPENINGS**

Brownfield Redevelopment Authority – County Representative – term expires 06-30-2020  
Building Board of Appeals – Alternate - term expires June 30, 2022  
Building Board of Appeals – Alternate - term expires June 30, 2021

Brownfield Redevelopment Authority – term expires June 30, 2022  
Historical Commission – 2 terms expire December 31, 2020  
Planning Commission – term expires June 30, 2020

**ADJOURNMENT**

Motion by Councilmember Bailey for adjournment at 8:03 p.m.

Motion supported by Councilmember Pidek and concurred in by unanimous vote.

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Christopher T. Eveleth, Mayor

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Amy K. Kirkland, City Clerk