



301 W. MAIN • OWOSSO, MICHIGAN 48867-2958 • (989) 725-0570 • FAX (989) 723-8854

MEMORANDUM

DATE: June 13, 2023

TO: Owosso City Council

FROM: Brad Barrett, Finance Director

SUBJECT: Ordinance Adoption – Authorizing Issuance of Revenue Bonds under Clean Water State Revolving Loan Fund (CWSRF) for wastewater treatment plant improvements

RECOMMENDATION:

Recommend approval of an ordinance to allow the city to obtain CWSRF financing for 2023. This is a required step in the financing of wastewater treatment plant improvements, which consists of internal tertiary process rehabilitation.

The city's bond attorney has drafted the ordinance. The ordinance is required to issue revenue bonds under Public Act 94 of 1933 and have the bonds purchased by the state.

BACKGROUND:

City council approved and authorized the publication of an amended Notice of Intent to issue revenue bonds at its meeting held May 1, 2023. The NOI for the CWSRF funded project, No. 5711-01, authorized a total maximum bond principal of \$19,000,000. The total project cost is estimated at \$20,412,500. The state has agreed to forgive \$5,300,000 of said bond and grant a \$1,412,500 ARPA grant.

FISCAL IMPACTS:

Estimated debt payment (\$13,700,000) is \$598,448 over 30 years at 1.875% paid from Fund 599. The city will be responsible for 53% of the payment and the other communities serviced by the treatment plant will be charged the remaining 47% of the payment per an annual debt charge authorized under the 1977 community agreement.

ORDINANCE NO. 840

A SUPPLEMENTAL ORDINANCE TO PROVIDE FOR THE ISSUANCE AND SALE OF REVENUE BONDS TO PAY THE COST OF THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO THE WASTEWATER TREATMENT SYSTEM OF THE CITY OF OWOSSO; TO PRESCRIBE THE FORM OF THE 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 BONDS; TO PROVIDE FOR SECURITY FOR THE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF REVENUES OF THE SYSTEM; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE BONDS AND THE SYSTEM.

THE CITY OF OWOSSO ORDAINS:

Section 1. 2023 SUPPLEMENTAL ORDINANCE. This ordinance (hereinafter referred to as the “2023 Supplemental Ordinance”) is adopted in accordance with Section 21 of the Prior Ordinance (defined below) and pursuant to the authority in Act 94.

Section 2. DEFINITIONS. Except as hereinafter provided, all terms which are defined in Section 1 of the Prior Ordinance shall have the same meanings in this 2023 Supplemental Ordinance. In addition, whenever used in this 2023 Supplemental Ordinance, except when otherwise indicated by context, the following definitions shall apply to the terms in this 2023 Supplemental Ordinance:

- (a) “Authority” means the Michigan Finance Authority, or any successor agency.
- (b) “Authorized Officer” means the Mayor, City Manager, Finance Director, or Public Utilities Director of the City, or any one or more of them.
- (c) “Bonds” as defined in the Prior Ordinance shall include the Series 2023 Bonds that are being issued on a parity with the Series 2020 Bond and the Series 2022 Bonds pursuant to Section 20 of the Prior Ordinance.
- (d) “Contract Documents” means the Purchase Contract between the City and the Authority, the Supplemental Agreement by and among the City, the Authority and the State of Michigan acting through the Department of Environment, Great Lakes, and Energy, and the Issuer’s Certificate for the Series 2023 Bonds, and such other closing documents required by the Authority for the issuance of the Series 2023 Bonds.
- (e) “Improvements” means the design, acquisition and construction of improvements to the System, including replacement of three treatment towers at the City’s wastewater treatment plant (the “WWTP”) and all other work, equipment, and site improvements necessary and incidental to these improvements.
- (f) “Issue Date” means the date on which the Series 2023 Bonds are delivered to the original purchaser thereof.
- (g) “Prior Ordinance” means Ordinance No. 807 adopted by the City Council on April 20, 2020 and Ordinance No. 826 adopted by the City Council on February 7, 2022.
- (h) “Series 2023 Bonds” means the Bonds authorized in Sections 5 and 6.

Section 3. NECESSITY, PUBLIC PURPOSE. It is hereby determined to be necessary for the public health, safety and welfare of the City to acquire and construct the Improvements to the System in accordance with the maps, plans and specifications therefor prepared by the City’s consulting engineers, which are hereby approved.

Section 4. ESTIMATED COST; PERIOD OF USEFULNESS. The cost of the Improvements has been estimated not to exceed \$ 20,412,500, including the payment of legal, engineering, financial and other expenses, which estimate of cost is approved and confirmed, and the period of usefulness of the Improvements is estimated to be not less than forty (40) years.

Section 5. ISSUANCE OF BONDS. To pay all or a portion of the cost of designing, acquiring, and constructing the Improvements and to pay the legal and financial expenses and all other expenses incidental to the issuance of the Series 2023 Bonds, the City shall borrow the sum of not to exceed \$19,000,000 and issue its revenue bonds pursuant to the provisions of Act 94. The Series 2023 Bonds shall be issued in the aggregate principal sum of not to exceed \$19,000,000, as finally determined by the Authorized Officer at the time of sale, or such lesser amount thereof as shall have been advanced to the City pursuant to the Contract Documents. The remaining cost of the Improvements, if any, shall be paid from City funds on hand and legally available for such use.

During the time funds are being drawn down by the City under the Series 2023 Bonds, the Authority will periodically provide 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 the Series 2023 Bonds.

Section 6. SERIES 2023 BOND DETAILS. The Series 2023 Bonds shall be designated "Wastewater Treatment System Revenue Bonds, Series 2023." The Series 2023 Bonds shall be issued as one fully registered bond, shall be sold and delivered to the Authority in the denomination of the principal amount of the Series 2023 Bonds. The Series 2023 Bonds shall be dated the date of delivery to the Authority, or such other date approved by the Authorized Officer, and shall be payable on the dates determined by the Authorized Officer at the time of sale provided the final maturity shall be no later than forty (40) years after the date of issuance. The Series 2023 Bonds shall bear interest at a rate of not to exceed 3.00% per annum as determined by the Authorized Officer, payable semiannually on the dates determined by the Authorized Officer at the time of sale.

Notwithstanding the above, the final amount of any maturity and terms of the Series 2023 Bonds shall be as provided in the Contract Documents and will be finally determined by the Authorized Officer.

Section 7. PAYMENT OF SERIES 2023 BONDS; CONFIRMATION OF STATUTORY LIEN. The principal of, premium, if any, and interest on the Series 2023 Bonds shall be payable solely from the Net Revenues, and, to secure such payment from the Net Revenues, the statutory lien upon the whole of the Net Revenues established by Act 94 and the pledge created in Section 6 of the Prior Ordinance is hereby confirmed in favor of the Series 2023 Bonds and lien shall be of equal standing and priority with the Series 2020 Bond and the Series 2022 Bonds, but junior and subordinate to the lien of all, if any, subsequently issued Senior Lien Bonds.

The Series 2023 Bonds, including both principal and interest thereon, shall not be a general obligation of the City and shall not constitute an indebtedness of the City for the purpose of any debt limitations imposed by any constitutional or statutory provisions.

The statutory lien on the Net Revenues with respect to the Series 2023 Bonds will continue until payment in full of the principal of and interest on the Series 2023 Bonds, or until sufficient cash or Sufficient Government Obligations, or a combination thereof, have been deposited in trust for the payment in full of the principal of and interest on the Series 2023 Bonds 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, or a combination thereof, as provided in the previous sentence, the statutory lien shall be terminated with respect to the Series 2023 Bonds, the holder of the Series 2023 Bonds shall have no further rights under the Ordinance except for payment from the deposited funds, and

the Series 2023 Bonds shall be considered to be defeased and shall not longer be considered to be outstanding under the Ordinance.

Section 8. STATE REVENUE SHARING PLEDGE. If required by the Authority, as additional security for repayment of the Series 2023 Bonds, 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 Authority as purchaser and holder of the Series 2023 Bonds. The Authorized Officer is authorized to execute and deliver a revenue sharing pledge agreement between the City and the Authority.

Section 9. PRIOR REDEMPTION. The Series 2023 Bonds issued and sold to the Authority shall be subject to redemption prior to maturity upon the terms and conditions set forth in the form of Series 2023 Bonds contained in Section 12 hereof.

Section 10. PAYING AGENT AND REGISTRATION.

- (a) Appointment of Paying Agent. From time to time the Authorized Officer shall designate and appoint a Paying Agent, which shall also act as transfer agent and bond registrar. The initial Paying Agent shall be the City Treasurer. In the event of a change in the Paying Agent, notice shall be given in writing, by certified mail, to each Registered Owner not less than sixty (60) days prior to the next interest payment date. The Paying Agent shall keep the official books for the recordation of the Registered Owners of the Bonds.
- (b) Registration of Bonds. Registration of the Bonds shall be recorded in the registration books of the City to be kept by a Paying Agent. Bonds may be transferred only by submitting the same, together with a satisfactory instrument of transfer signed by the Registered Owner or the Registered Owner's legal representative duly authorized in writing, to the Paying Agent, after which a new Bond or Bonds shall be issued by the Paying Agent to the transferee (new registered owner) in any denomination, in the same aggregate principal amount as the Bond submitted for transfer. No transfer of Bonds shall be valid unless and until recorded on the bond registration books in accordance with the foregoing. The person in whose name any Bond is registered may for all purposes, notwithstanding any notice to the contrary, be deemed and treated by the City and the Paying Agent as the absolute owner thereof, and any payment of principal and interest on any Bond to the Registered Owner thereof shall constitute a valid discharge of the City's liability upon such Bond to the extent of such payment. No Bond shall be transferred less than fifteen (15) days prior to an interest payment date nor after the Bond has been called for redemption.
- (c) Authority's Depository. Notwithstanding any other provision of the Prior Ordinance, this 2023 Supplemental Ordinance or the Series 2023 Bonds, so long as the Authority is the owner of the Series 2023 Bonds: (a) the Series 2023 Bonds shall be payable in lawful money of the United States; (b) the Series 2023 Bonds are payable as to principal, premium, if any, and interest at U.S. Bank Trust Company, National Association, or at such other place as shall be designated in writing to the City by the Authority (the "Authority's Depository"); (c) the City agrees that it will deposit with the Authority's Depository payments of the principal of, premium, if any, and interest on the Series 2023 Bonds in immediately available funds by 12:00 p.m. (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 p.m. (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 (d) written notice of any redemption of the Series 2023 Bonds 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.

Section 11. SALE OF BONDS. The Series 2023 Bonds shall be sold to the Authority by means of a negotiated sale. The City determines that a negotiated sale to the Authority is in the best interest of the

City because the terms offered by the Authority are more favorable than those available from other sources of funding.

Section 12. **BOND FORM.** The Series 2023 Bonds shall be in substantially the following form with such completions, changes and additions as may be required by the Authority or as recommended by the City's Bond Counsel and approved by the officers of the City signing the Series 2023 Bonds:

**UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF SHIAWASSEE**

CITY OF OWOSSO

WASTEWATER TREATMENT SYSTEM REVENUE BOND, SERIES 2023

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>
	See Schedule I	_____, 2023

Registered Owner: Michigan Finance Authority

Principal Amount:

The City of Owosso, Shiawassee County, Michigan (the "Issuer"), acknowledges itself indebted and, for value received, hereby promises to pay to the Registered Owner specified above, or registered assigns, out of the net revenues of the Wastewater Treatment System of the City (the "System"), including all appurtenances, additions, extensions and improvements thereto after provision has been made for reasonable and necessary expenses of operation, maintenance and administration of the System (the "Net Revenues"), the amounts and on the Dates of Maturity set forth on Schedule I herein, together with interest thereon from the dates of receipt of such funds, or such later date to which interest has been paid, at the Interest Rate per annum specified above, first payable on _____ 1, 20__, and semiannually thereafter on the first day of April and October of each year, except as the provisions hereinafter set forth with respect to redemption of this Bond prior to maturity may become applicable hereto.

The Issuer promises to pay to the Michigan Finance Authority (the "Authority") the principal amount of this Bond or so much thereof as shall have been advanced to the Issuer pursuant to a Purchase Contract between the Issuer and the Authority and a Supplemental Agreement by and among the Issuer, the Authority and the State of Michigan acting through the Department of Environment, Great Lakes and Energy, and the Order of Approval issued by the Department of Environment, Great Lakes and Energy.

Interest on this Bond is payable to the registered owner of record as of the close of business on the 15th day of the month immediately preceding any interest payment as shown on the registration books of the Issuer kept by the Treasurer of the Issuer, as bond registrar and paying agent, by check or draft mailed by the Treasurer of the Issuer to the registered owner at the registered address. Interest on this Bond shall be computed on the basis of a 360-day year comprised of twelve 30-day months. During the time funds are being drawn down by the Issuer under this Bond, the Authority will periodically provide the Issuer 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 Issuer 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.

Notwithstanding any other provision of this Bond, so long as the Authority is the owner of this Bond, (a) this Bond is payable as to principal, premium, if any, and interest at U.S. Bank Trust Company, National Association, or at such other place as shall be designated in writing to the Issuer by the Authority (the "Authority's Depository"); (b) the Issuer 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 p.m. (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 p.m. (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; and (c) written notice of any redemption of this Bond shall be given by the Issuer and received by the Authority's Depository at least 40 days prior to the date on which such redemption is to be made.

This Bond, being one fully registered bond, is issued in accordance with the provisions of Act 94, Public Acts of Michigan, 1933, as amended Ordinance No. 807 adopted by the City Council of the Issuer on April 20, 2020, as supplemented on February 7, 2022, and as supplemented again on June 20, 2023 (as supplemented, the "Ordinance"), for the purpose of paying the cost of acquiring and constructing improvements to the System. This Bond is a self-liquidating bond, and is not a general obligation of the Issuer within any constitutional, statutory or charter limitation, but is payable, both as to principal and interest, solely from the Net Revenues of the System. The principal of and interest on this Bond are secured by a statutory lien on the Net Revenues.

The Issuer hereby covenants and agrees to fix, and maintain at all times while any of the Bonds 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 upon all such Bonds as and when the same become due and payable, to maintain a bond and interest redemption account and 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. **The City has reserved the right, on the conditions stated in the Ordinance, to issue additional bonds of prior and senior or equal standing of priority of lien with this Bond as to the Net Revenues.** 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 equal or superior standing may hereafter be issued, and the general covenants and provisions pursuant to which this Bond is issued, reference is made to the Ordinance.

Bonds of this series may be subject to redemption prior to maturity by the Issuer only with the prior written consent of the Authority and on such terms as may be required by the Authority.

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

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

form as required by law and that the total indebtedness of the Issuer including this Bond, does not exceed any charter, constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Owosso, Shiawassee County, Michigan, by its City Council, has caused this Bond to be signed, by the manual or facsimile signatures of its Mayor and City Clerk, all as of the _____ day of _____, 2023.

Robert Teich Jr., Mayor

Amy K. Kirkland, City Clerk

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____

(please print or type social security number or taxpayer identification number and name and address of transferee)

the within bond and all rights thereunder, and does hereby irrevocably constitute and appoint _____ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____, 20__

Notice: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever. When assignment is made by a guardian, trustee, executor or administrator, an officer of a corporation, or anyone in a representative capacity, proof of his/her capacity to act must accompany the bond.

In the presence of: _____

Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guaranty program.

Signature Guaranteed: _____

Name of Issuer: CITY OF OWOSSO
EGLE Project No: 5711-01
EGLE Approved 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 Environmental Quality (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 that 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 principal is disbursed, until paid, at the rate of ____% per annum, payable _____ 1, 20__, and semiannually thereafter.

The Issuer agrees that it will deposit with U.S. Bank Trust Company, National Association, 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 p.m. (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 p.m. (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.

[END OF BOND FORM]

Section 13. SALE, ISSUANCE, DELIVERY, TRANSFER AND EXCHANGE OF SERIES 2023 BONDS.

The Series 2023 Bonds shall be sold at a private, negotiated sale to the Authority, as authorized by Act 227, Public Acts of Michigan, 1985, as amended. The City Council determines that the sale and delivery of the Series 2023 Bonds to the Authority as provided in this 2023 Supplemental Ordinance will provide the City with the lowest cost of borrowing money for the Improvements. The sale shall be made pursuant to the terms and conditions to be set forth in a Purchase Contract (the "Purchase Contract") and a Supplemental Agreement (the "Supplemental Agreement") related to the Series 2023 Bonds. The Authorized Officer is authorized to execute and deliver the Supplemental Agreement and the Purchase Contract in such forms as shall be approved by the Authorized Officer, with such approval to be evidenced by the Authorized Officer's signature thereon. Notwithstanding any other provision of this 2023 Supplemental Ordinance, the Series 2023 Bonds shall be initially sold to the Authority as one bond, numbered 1, in the aggregate principal amount of not to exceed the original principal amount of the Series 2023 Bonds. In addition, the Authorized Officer and other City employees and officials are authorized to execute and deliver to the Authority and such certificates and documents as the Authority or bond counsel shall require and to do all other things necessary to effectuate the sale, issuance, delivery, transfer and exchange of the Series 2023 Bonds in accordance with the provisions of this 2023 Supplemental Ordinance. The Authorized Officer is authorized to execute any orders, receipts, agreements, pledge agreements, documents or certificates necessary to complete the transaction, including, but not limited to, any issuers certificate, any certificates relating to federal or state securities laws, rules or regulations, and any revenue sharing pledge agreement. The Authorized Officer is authorized to seek a credit assessment, or similar, from Standard & Poor's or another nationally recognized rating organization and to execute and file any applications to the Michigan Department of Treasury, including an Application for State Treasurer's Approval to Issue Long-Term Securities and any other applications to the Michigan Department of Treasury and to seek any waivers from the Michigan Department of Treasury. Any prior actions of the Authorized Officer in furtherance of this

Section 13 and the transactions contemplated by this 2023 Supplemental Ordinance are hereby ratified and confirmed.

Section 14. TAX COVENANT. The City covenants to comply with all requirements of the Code necessary to assure that the interest on the Series 2023 Bonds will be and will remain excludable from gross income for federal income tax purposes. The Authorized Officer and other appropriate officials of the City are authorized to do all things necessary to assure that the interest on the Series 2023 Bonds will be and will remain excludable from gross income for federal income tax purposes.

Section 15. EXECUTION OF BONDS. The Mayor or the Mayor Pro Tem, and the Clerk or Deputy Clerk of the City, are hereby authorized and directed to sign the Series 2023 Bonds, either manually or by facsimile signature, on behalf of the City. Upon execution, the Series 2023 Bonds shall be delivered to the purchaser upon receipt of the purchase price or upon compliance with the terms and conditions of the Purchase Contract.

Section 16. CONSTRUCTION FUND. The City Treasurer is hereby directed to create and maintain a construction fund for the Improvements (the "Construction Fund"), into which the proceeds of the Series 2023 Bonds shall be deposited. Such moneys shall be used solely for the purpose for which the Series 2023 Bonds were issued. Any unexpected balance in the Construction Fund remaining after completion of the Improvements may be used for such purposes as allowed by law. After completion of the Improvements and disposition of remaining Series 2023 Bond proceeds, if any, pursuant to the provisions of this Section, the Construction Fund shall be closed.

Section 17. SERIES 2023 BOND PROCEEDS. The proceeds of the sale of the Series 2023 Bonds shall be used solely to pay the costs of the Improvements and any engineering, legal and other expenses incident thereto; provided that the City Council shall not authorize the payment of any such moneys for acquisition and construction of any part of the Improvements until there shall have been first filed with it by the consulting engineer in charge of such work, a written statement to the effect that the sum so to be paid is in full or partial payment of a contractual obligation in connection with the Improvements and that the City has received the consideration for such payment. The statement of the consulting engineer shall also show the cost of acquisition and construction of the Improvements that has theretofore been approved by him for payment and the amount of the balance that will be required for completion of the Improvements.

Section 18. PUBLICATION AND RECORDATION. This 2023 Supplemental Ordinance shall be published once in full in a newspaper of general circulation in the City qualified under state law to publish legal notices, and the same shall be recorded in the records of the City and such recording authenticated by the signature of the City Clerk.

Section 19. ORDINANCE SUBJECT TO MICHIGAN LAW. The provisions of this 2023 Supplemental Ordinance are subject to the laws of the State of Michigan.

Section 20. SECTION HEADINGS. The section headings in this 2023 Supplemental Ordinance are furnished for convenience of reference only and shall not be considered to be a part of this 2023 Supplemental Ordinance.

Section 21. SEVERABILITY. If any section, paragraph, clause or provision of this 2023 Supplemental Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this 2023 Supplemental Ordinance.

Section 22. RATIFICATION OF PRIOR ORDINANCE; CONFLICTING ORDINANCES. The Prior Ordinance, as supplemented by the 2022 Supplemental Ordinance and this 2023 Supplemental Ordinance, is hereby ratified and confirmed. All ordinances or parts thereof, insofar as the same may be in conflict herewith, are hereby repealed to the extent of the conflict; provided, that the foregoing shall not operate to

repeal any provision thereof, the repeal of which would impair the obligation on the Series 2020 Bond, the Series 2022 Bonds, or the Series 2023 Bonds.

Section 23. EFFECTIVE DATE OF ORDINANCE. Pursuant to Section 6 of Act 94, this 2023 Supplemental Ordinance shall be approved on the date of first reading and this 2023 Supplemental Ordinance shall be effective immediately upon its adoption and publication pursuant to Act 94.

I hereby certify that the foregoing document is a true and complete copy of an ordinance adopted by the Owosso City Council at the regular meeting of June 20, 2023.

Amy K. Kirkland, City Clerk