

ORDINANCE NO. 2004 - 2

An Ordinance amending Ordinance No. 2002-4

WHEREAS, the Board of Trustees of the Jennings Northwest Regional Utilities ("District") adopted Ordinance No. 2002-4 ("Ordinance") on August 15, 2002; and,

WHEREAS, the Ordinance approved the refunding of certain outstanding Notes (as defined in this Ordinance) and the issuance of the District's sewage works revenue bonds, in one or more series, to provide funds for the refunding of the Notes; and,

WHEREAS, the Notes were issued to finance a sewage works improvement project ("Project") of the District; and,

WHEREAS, the State of Indiana, acting through its State Revolving Loan Fund Program created and existing pursuant to I.C. 13-18-13 ("SRF Program") has provided the District with a form of Financial Assistance Agreement ("Assistance Agreement") with terms the District desires to accept pertaining to the financing and the Project, but such Assistance Agreement is in a different form than was approved upon the adoption of the Ordinance; and,

WHEREAS, when entered into, the Assistance Agreement will provide for the purchase two (2) series of bonds of the District authorized under the Ordinance and designated as "Sewage Works Revenue Bonds of 2004, Series A" ("Series A Bonds") and "Sewage Works Revenue Bonds of 2004, Series B" ("Series B Bonds"); and,

WHEREAS, the State of Indiana, acting through its supplement fund program created and existing pursuant to I.C. 13-18-21-23 to -29 ("Supplement Fund Program") has also provided the District with a form of Financial Aid Agreement ("Aid Agreement"), which when entered into, will make a grant of funds available to the District to enable the District to establish a financing plan and complete additional work on the Project, and thereby cause the Project to function within the design specifications contemplated in the Plans and Specifications, as defined in the Aid Agreement; and,

WHEREAS, the State has requested the District approve the substantially final forms of Assistance Agreement and Aid Agreement, each as presented to the Board of Trustees with this Ordinance; and,

WHEREAS, the State has also requested that certain amendment be made to the Ordinance to reflect the terms set out in the Assistance Agreement and the Aid Agreement; and,

WHEREAS, the Board of Trustees finds that the Ordinance should be amended as set forth herein and the Assistance Agreement and Aid Agreement should each be approved and the

President and the Treasurer should be authorized to execute and deliver the same to the State of Indiana;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE JENNINGS NORTHWEST REGIONAL UTILITIES:

Section 1. In accordance with Section 1 (c) of the Ordinance, the Secretary, with the advice of the District's financial advisor, and upon concurrence by the Board of Trustees, hereby determines that the finances of the District's sewage works will allow (i) the Series A Bonds to be issued as a first charge upon the Net Revenues (as defined in the Ordinance) of the sewage works, on a parity with the 1997 Bonds (as defined in the Ordinance), and (ii) the Series B Bonds to be issued as a second charge upon the Net Revenues of the sewage works, junior and subordinate to the 1997 Bonds and the Series A Bonds, as set forth in the Assistance Agreement.

Section 2. Section 2 (b) of the Ordinance is amended and restated as follows:

"(b) If the Bonds are sold to the SRF Program or any other purchaser that does not object to such designation, the Secretary may serve as Registrar and Paying Agent and, in that case, is hereby charged with the duties of a Registrar and Paying Agent."

Section 3. Section 5, setting forth the form of the bond, shall be amended to refer specifically to either the Series A Bonds or the Series B Bonds, as the case may be.

Section 4. The following is hereby added to the end of the third sentence of Section 8 of the Ordinance:

"Provided, however, in lieu of any such verification or certification, the Treasurer may receive from a Note holder a full and complete release and discharge of their respective claims and rights to payment thereon notwithstanding that any such payment being less than a full payment of the principal of and interest on the Notes being so discharged."

Section 5. There is hereby added new subsections (d) and (e) to Section of 11 of the Ordinance as follows:

(d) "The Sinking Fund, containing the Bond and Interest Account and the Reserve Account, may be held by a financial institution acceptable to the SRF Program, pursuant to terms acceptable to the SRF Program. If the Sinking Fund and the accounts therein are held in trust, the District shall transfer the monthly required amounts of Net Revenues to the Bond and Interest Account and the Reserve Account in accordance with this Section 11, and the financial institution holding such funds in trust shall be instructed to pay the required payments in accordance with the payment schedules for the District's outstanding bonds. The Board hereby authorizes

the President and Secretary to execute and deliver an agreement with a financial institution to reflect this trust arrangement for the Sinking Fund. The financial institution selected to serve in this role may also serve as Registrar and Paying Agent for any outstanding bonds of the District.

- (e) With respect to the Series B Bonds, the District shall prepay a portion of the final maturity of the Series B Bonds on each September 1 in an amount equal to the Annual Growth Revenue, as defined in the Assistance Agreement.”

Section 6. The substantially final forms of Assistance Agreement and Aid Agreement attached hereto and incorporated herein by reference are hereby approved, and the President and the Treasurer are authorized to execute and deliver the same to the SRF Program and Supplemental Fund Program, and to approve any changes in form or substance to the Assistance Agreement or the Aid Agreement which are consistent with the terms of the Ordinance, as hereby amended by this ordinance, such changes to be conclusively evidenced by their execution. The Board of Trustees hereby agrees that the purchase of the Series A Bonds and the Series B Bonds shall be governed by the terms of the Assistance Agreement and Aid Agreement, as applicable, and such terms are expressly incorporated into the Ordinance. To the extent that any portion of the Series A Bonds or the Series B Bonds is not purchased by the SRF Program, the Board of Trustees authorizes a sale of such Bonds to the Supplemental Fund Program to evidence a loan thereunder in lieu of the entire grant as provided for and set forth in the attached form of Aid Agreement, with the form of such attached agreement to be changed to reflect the terms resulting from that difference. In the event the State of Indiana, acting through its Budget Agency or otherwise for the benefit of its Supplement Fund Program, is initially a purchaser of any portion of the Series A Bonds or the Series B Bonds (or from time to time becomes the holder any such bonds) then each and every right, remedy, privilege or benefit recited in the Ordinance as accruing or existing to or for the benefit to the State of Indiana in connection with its SRF Program shall simultaneously accrue and exist to or for the benefit to the State of Indiana in connection with its Supplement Fund Program.

Section 7. The District agrees and covenants to pursue the additional work on the Project as more fully described in the Assistance Agreement and Aid Agreement, with the intent of causing the Project to fully qualify for assistance from the SRF Program and Supplemental Fund Program.

Section 8. All provisions of the Ordinance not in conflict herewith, shall remain in full force and effect. This ordinance shall be in full force and effect from and after its passage.

Passed and adopted by the Board of Trustees of the Jennings Northwest Regional Utilities on the 21st day of June, 2004.

BOARD OF TRUSTEES

Edwin Whitaker

Thomas H. Coulter

David A. B. Jones

William C. Colton

Kyle [Signature]

Nellie Vincent

Attest:

Mark K. [Signature]
Secretary

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