

RESOLUTION NO. 2021-08

BOARD OF SANITARY COMMISSIONERS OF
MUNCIE SANITARY DISTRICT

PLEDGING A PAYMENT SOURCE TO BOT LEASE PAYMENTS
AND TAKING CERTAIN OTHER RELATED ACTIONS

WHEREAS, the Board of Sanitary Commissioners of the Muncie Sanitary District (the "Board") has established, constructed, and financed its sewage works system, which it owns and operates pursuant to Ind. Code §36-9-25 (the "Act");

WHEREAS, the existing sewage works, together with: (a) all real property and equipment used in connection therewith; (b) all appurtenances thereto; and (c) all extensions, additions, and improvements thereof or thereto at any time hereafter constructed and/or acquired, collectively, are the "Sewage Works";

WHEREAS, pursuant to Resolution No. 12-20, the Common Council of the City of Muncie, Indiana (the "City"), adopted the provisions of Ind. Code §5-23, et seq. (the "BOT Statute"), and authorized the issuance of a request for proposals and qualifications for the design, financing, and construction of certain improvements to the Sewage Works, including a new solar energy system and related infrastructure to improve the energy efficiency thereof (the "BOT Project");

WHEREAS, having proceeded through the process required by the BOT Statute, the Board, pursuant to Resolution No. 2021-06: (a) awarded the BOT Project to GM Development Companies LLC; (b) acknowledged that MSD Solar 2021 LLC would be the "Developer" entity in connection with the BOT Project; and (c) authorized the Muncie Sanitary District (the "District") to execute: (i) a build-operate-transfer lease agreement with the Developer (the "BOT Lease Agreement"), under which the District will lease the completed BOT Project from the Developer, in connection with which it will be obligated to pay to the Developer semi-annual lease payments comprised of a principal component and an interest component (the "BOT Lease Payments"); (ii) a participation and purchase agreement under which the Developer will sell and assign to a financial institution selected by the Developer and acceptable to the District (the "Bank") Developer's right to receive the BOT Lease Payments (the "Payment Rights"), the proceeds of which sale (the "Payment Rights Sale Proceeds") will be used to design and construct the BOT Project; and (iii) any other documents necessary or reasonably appropriate to consummate the transaction contemplated in the BOT Lease Agreement (all of the foregoing, collectively, the "Transaction Documents");

WHEREAS, consistent with the Act, the Board: (a) adopted its Declaratory Resolution, finding preliminarily that it will be of public utility and benefit of the citizens of the District to construct and install the BOT Project; and (b) following a public hearing on final confirmation of such finding, adopted its Confirmatory Resolution, confirming the public utility and benefit of the BOT Project,

WHEREAS, the BOT Lease Agreement, and the District's obligation to perform its obligations thereunder, including the obligation to pay the BOT Lease Payments, collectively are the "BOT Obligations";

WHEREAS, each of the outstanding bonds of the District specified below is secured by a first charge on the Net Revenues of the Sewage Works (herein defined as gross revenues of the Sewage Works after deduction only for the payment of the reasonable expenses of operation, repair and maintenance, excluding payments in lieu of property taxes), and is on parity with each of the other such bonds (collectively, the "Outstanding Parity Bonds"):

(a) District Revenue Bonds, Series 2016A, dated July 27, 2016, now outstanding in the aggregate principal amount of \$59,265,000.00 and maturing semiannually on January 1 and July 1 over a period ending January 1, 2037;

(b) District Refunding Revenue Bonds, Series 2017, dated July 27, 2017, now outstanding in the aggregate principal amount of \$8,650,000.00 and maturing on

January 1, 2027; and

(c) Sanitary District Revenue and Refunding Revenue Bonds:

(i) Series 2021A, dated April 1, 2021, now outstanding in the aggregate principal amount of \$43,475,000.00 and maturing semi-annually on January 1 and July 1 over a period ending July 1, 2038;

(ii) Series 2021B, dated April 1, 2021, now outstanding in the aggregate principal amount of \$40,915,000.00 and maturing on January 1, 2042; and

(iii) Series 2021C, dated April 6, 2021, now outstanding in the aggregate principal amount of \$3,030,000.00 and maturing on July 1, 2022.

WHEREAS, the resolutions by which Net Revenues are pledged to each of the Outstanding Parity Bonds (collectively, the "Bond Resolutions") permit the pledge of Net Revenues to obligations of the District which rank on a junior and subordinate basis to the Outstanding Parity Bonds;

WHEREAS, the BOT Obligations will be entered into pursuant to the BOT Statute and in a manner consistent with the Act and, as permitted by the Act, the Bond Resolutions and Ind. Code § 5-1-14-4, the Board intends to pledge the Net Revenues to the payment of the BOT Lease Payments on a junior and subordinate basis to the Outstanding Parity Bonds;

WHEREAS, the Board finds that all conditions precedent to entering into the BOT Obligations and the pledge of the Net Revenues to the payment of the BOT Lease Payments have been met and satisfied pursuant to the BOT Statute and, as applicable, the Act; and

WHEREAS, the Board desires to reaffirm its actions under Resolution No. 2021-06, and to hereby pledge the Net Revenues to the payment of the BOT Lease Payments, on a junior and subordinate basis to the Outstanding Parity Bonds.

ACCORDINGLY, BE IT RESOLVED BY THE BOARD OF SANITARY COMMISSIONERS OF THE MUNCIE SANITARY DISTRICT AS FOLLOWS:

1. Reaffirmation. The Board reaffirms: (a) its award of the BOT Project to GM Development Companies LLC; (b) its acknowledgment of the Developer entity; (c) its authorization of the execution of the Transaction Documents, and its designation of the Board President, City Engineer and District Administrator each as the "Authorized Individual"; and (d) its confirmation that the BOT Lease Agreement will constitute a "BOT Agreement" under the BOT Statute. The BOT Obligations shall be entered into pursuant to the BOT Statute and in a manner consistent with the Act.

2. Net Revenues Pledge. As permitted pursuant to the Act and Ind. Code § 5-1-14-4, the Board hereby pledges the Net Revenues to the payment of the BOT Lease Payments, which pledge is junior and subordinate to the pledge of the Net Revenues to the Outstanding Parity Bonds. Accordingly, the BOT Obligations constitute a second charge upon the Net Revenues. The foregoing pledge is irrevocable, and shall be binding from the time this Resolution is adopted and remain in effect until all obligations of the District under the BOT Lease Payments have been satisfied. The Board is not obligated to pay the BOT Lease Payments from any source other than the Net Revenues which shall be deposited to a special fund for that purpose; accordingly, the BOT Obligations do not constitute an indebtedness or general obligation of the District within the meaning of the provisions and limitations of the constitution of the State of Indiana. The Board may, but is not obligated to (and is not pledging to), appropriate other legally available funds to pay the BOT Lease Payments. As herein provided, the District reserves the right to issue bonds in the future secured by the Net Revenues on a parity with the Outstanding Parity Bonds, senior to the payment of the BOT Lease Payments.

3. **Rate Covenant.** The District covenants and agrees that it will establish and maintain just and equitable rates and charges for the use of, and the service rendered by, the Sewage Works (the "Use Charges"), which Use Charges from time-to-time may be changed and/or readjusted by the District to comply with the provisions of this Section. The Use Charges at all times shall be in an amount adequate to produce sufficient revenues, when combined with any other charges, fees, income, or revenues available to the District from the operation of the Sewage Works (collectively with the revenue from the imposition of the Use Charges, the "Revenues"), to: (a) pay the proper and reasonable expenses of the operation, repair, and maintenance of the Sewage Works (the "O&M Expenses"); (b) comply with and satisfy all requirements and covenants set forth in this Resolution; and (c) satisfy all other obligations of the Sewage Works, and of the District with respect to the Sewage Works, including the transfers required to be made to the Sinking Fund (as defined in Section 6) by the Act and this Resolution. The Use Charges shall be imposed upon, and payable by the owner of, each and every lot, parcel of real estate, and building that: (a) is connected with and uses the Sewage Works; or (b) in any way uses or is served by the Sewage Works; including that the City and the District shall pay as and when due Use Charges imposed upon lots, parcels of real estate, and buildings owned by it. In connection with the foregoing, the District shall take such actions permitted by law that are necessary or deemed by the District to be appropriate to cause all real property at or from which liquid and/or solid waste and sewage are produced to be connected to sanitary sewers within the Sewage Works.

4. **Revenue Fund.** The Bond Resolutions establish the currently existing and continuing fund known as the Sewage Works Revenue Fund (the "Revenue Fund"), which fund shall continue to be maintained separate and apart from all other accounts of the City and the District. Upon receipt thereof, all Revenues shall be deposited into the Revenue Fund. The Revenues on deposit in the Revenue Fund shall be transferred and allocated as provided by, and in accordance with, Sections 5 – 7.

5. **O&M Fund.** The Bond Resolutions establish the currently existing and continuing fund known as the Operation and Maintenance Fund (the "O&M Fund"), which fund shall continue to be maintained separate and apart from all other accounts of the City and the District. There shall be maintained in the O&M Fund an amount sufficient to pay the O&M Expenses for the immediately following two calendar months. Revenues transferred to the O&M Fund: (a) shall be used to pay reasonable and proper O&M Expenses; provided that Revenues transferred to the O&M Fund shall not be used to pay payments in lieu of property taxes ("PILOTs"); and (b) may be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal and interest amounts due and payable with respect to: (i) the Outstanding Parity Bonds or any other outstanding bonds of the District issued after the date hereof that are payable from the Net Revenues and on parity with the Outstanding Parity Bonds (the "Additional Senior Parity Bonds" and, together with the Outstanding Parity Bonds, the "Senior Bonds"); or (ii) the BOT Lease Payments or other bonds of the District which are payable from Net Revenues.

6. **Sinking Fund.** The Bond Resolutions establish the currently existing and continuing fund known as the Sewage Works Sinking Fund (the "Sinking Fund"), which fund shall continue to be maintained separate and apart from all other accounts of the City and the District. Net Revenues shall be transferred from the Revenue Fund to the Sinking Fund, and allocated among the Bond and Interest Account, the BOT Obligations Account, the Reserve Account and the BOT Obligations Reserve Account (each as defined in this Section), as set forth below.

(a) **Bond and Interest Account.** The Bond Resolutions establish the currently existing and continuing account within the Sinking Fund known as the Bond and Interest Account (the "Bond and Interest Account"). Principal and interest payments, and any fiscal agency charges in connection therewith, required to be made by the District with respect to the Senior Bonds and any other bonds of the District payable from the Net Revenues shall be paid from funds allocated to the Bond and Interest Account. Transfers of Net Revenues to the Bond and Interest Account shall be made in accordance with the Bond Resolutions.

(b) **BOT Obligations Account.** An account within the Sinking Fund to be known as the BOT Obligations Account is hereby created (the "Bond Obligations Account"). There shall be transferred, on the last day of each month, from the Revenue Fund and credited

to the BOT Obligations Account an amount of Net Revenues equal to at least one-sixth (1/6) of the BOT Lease Payment due on the next BOT Lease Payment date until the amount of the BOT Lease Payment then next due shall have been so credited. The transfers of Net Revenues to the BOT Obligations Account shall be junior and subordinate to any transfers of Net Revenues to the Bond and Interest Account to pay any Senior Bonds. The District shall, from the sums deposited in the BOT Obligations Account, remit promptly to the Developer, or assignee thereof, sufficient moneys to pay the BOT Lease Payments on the due dates thereof.

(c) Reserve Account. The Bond Resolutions establish the currently existing and continuing account within the Sinking Fund known as the Debt Service Reserve Account (the "Reserve Account") as a reserve for the Senior Bonds. The Bond Resolutions require that there be maintained in the Reserve Account an amount equal to, but not in excess of, the lesser of: (A) the maximum annual debt service on the Senior Bonds; (B) 125% of the average annual debt service on the Senior Bonds; or (C) 10% of the proceeds of the Senior Bonds (the "Reserve Requirement"). The Reserve Account secures the payment of the Senior Bonds and the funds held therein do not secure nor may they be used to pay the BOT Lease Payments. Pursuant to the Bond Resolutions, the Reserve Requirement may be funded from monthly transfers of Net Revenues. Any transfers of Net Revenues to the Reserve Account shall be senior to any transfers of Net Revenues to the BOT Obligations Account or the BOT Obligations Reserve Account.

(d) BOT Obligations Reserve Account. An account within the Sinking Fund to be known as the "BOT Obligations Reserve Account" hereby is created (the "BOT Obligations Reserve"). There shall be maintained in the BOT Obligations Reserve an amount equal to, but not in excess of, the lesser of: (A) the maximum annual BOT Lease Payment amount; (B) 125% of the average annual BOT Lease Payment amounts; or (C) 10% of the proceeds of the sale of the Payment Rights (as applicable, the "BOT Reserve Requirement"). The BOT Obligations Reserve secures the payment of the BOT Lease Payments and the funds held therein do not secure nor may they be used to pay the Senior Bonds. The BOT Reserve Requirement shall either be funded on the date of execution of the BOT Lease Agreement from funds on hand or Net Revenues of the District. If the BOT Reserve Requirement is not fully funded on the date of execution of the BOT Lease Agreement, the District shall fund the BOT Reserve Requirement from nearly equal monthly installments of Net Revenues over a five year period. Any transfers of Net Revenues to the BOT Obligations Reserve shall be junior and subordinate to any transfers of Net Revenues to the Bond and Interest Account to pay Senior Bonds or to the Reserve Account. In the event of any deficiency in the BOT Obligations Account to pay any BOT Lease Payment when due, the funds held in the BOT Obligations Reserve shall be transferred to the BOT Obligations Account to make up for such deficiency. The BOT Obligations Reserve shall then be restored to the BOT Reserve Requirement from monthly transfers of Net Revenues available after meeting the requirements of the Bond and Interest Account, the BOT Obligations Account and the Reserve Account. Notwithstanding anything to the contrary set forth herein, the BOT Reserve Requirement may be satisfied in full or in part with a debt service reserve surety issued by an insurance company rated in one of the three highest rating categories by either S&P Global Ratings or Moody's Investors Service, with such rating being assessed only at the time the surety is acquired.

7. Improvement Fund. The Bond Resolutions establish the currently existing and continuing fund known as the Sewage Works Improvement Fund (the "Improvement Fund"), which shall continue to be maintained separate and apart from all other accounts of the City and the District. If, after transferring the required amounts to the O&M Fund and the Sinking Fund, any Net Revenues remain on deposit in the Revenue Fund, then such Net Revenues may be transferred to the Improvement Fund for use to pay the costs of extensions, replacements, improvements, and additions to the Sewage Works. No such transfer to the Improvement Fund shall be made, however, which will interfere with the requirements of the Sinking Fund or the accumulation of the reserves therein. All or any portion of the funds accumulated and reserve

in the Improvement Fund shall be transferred to the Sinking Fund, if necessary, to prevent a default in the payment of principal of or interest on the bonds payable from the Sinking Fund, payments due on the BOT Lease Payments or to eliminate any deficiencies in credits to or minimum balance in the Reserve Account and the BOT Obligations Reserve. Moneys in the Improvement Fund may also be transferred to the O&M Fund to meet unforeseen contingencies in the operation, repair and maintenance of the Sewage Works. The District reserves the right to transfer PILOTs from the Improvement Fund, no more frequently than semiannually, in accordance with the Act, and only if all required transfers have been made to the Sinking Fund and the accounts of the Sinking Fund contain the required balances as of the date the PILOTs are paid. Any transfers of moneys in the Improvement Fund to the Sinking Fund, if and to the extent necessary, shall first be made to the Bond and Interest Account for the payment of any Senior Bonds payable therefrom, then to the Reserve Account for any necessary replenishment of the Reserve Requirement, then to the BOT Obligations Account for the payment of any BOT Lease Payments and then to the BOT Obligations Reserve.

8. Funds Maintenance.

(a) Separation. Each of the Revenue Fund, the O&M Fund, the Sinking Fund, and the Improvement Fund (collectively, the "Funds") shall be maintained separate and apart from all other accounts of the City and the District (including the other Funds); provided that nothing in this Resolution shall be construed to require the establishment and maintenance of a separate bank account for each Fund (or, in the case of the Sinking Fund, for the Bond and Interest Account, the BOT Obligations Account, the Reserve Account and/or the BOT Obligations Reserve).

(b) Investment. All Revenues in the Funds shall be deposited, held, and secured as public funds in accordance with the public depository laws of the State of Indiana. The Revenues in each Fund may be invested in obligations in accordance with applicable laws (including, without limitation, Ind. Code §5-13, Ind. Code §5-1-14-3, and applicable requirements of federal law with respect to ensuring that the yield is the then-current market rate) and the provisions of this Resolution to the extent necessary or advisable to preserve the exclusion from gross income of interest on the Senior Bonds and the BOT Obligations.

(c) Records. The District shall keep on file in its office true, accurate, and correct books and records with respect to: (i) the Revenues received; (ii) the transfer of the Revenues to the Funds, and the subsequent allocation within the Sinking Fund to the Bond and Interest Account, the Reserve Account, the BOT Obligations Account, and the BOT Obligations Reserve; (iii) disbursements made to pay the O&M Expenses; and (iv) the investment of any Revenues. Such books and records shall be maintained in accordance with: (i) generally accepted governmental accounting standards for utilities, as promulgated by the Government Accounting Standards Board, and on an accrual basis; and (ii) the rules, regulations and guidance of the State Board of Accounts. The Board hereby is authorized and directed to: (i) employ consultants or other professionals from time to time to advise the District as to requirements of federal law with respect to preserving the Tax Exclusion (as defined in Section 11); and (ii) pay the fees incurred in connection therewith, which fees shall constitute O&M Expenses.

9. Additional Junior Obligations. The Bond Resolutions permit the Board to: (a) authorize and issue Additional Senior Parity Bonds, subject to the satisfaction of the tests set forth in the Bond Resolutions; and (b) incur additional obligations payable from Net Revenues that are junior and subordinate to the Senior Bonds (such as, by way of example, the BOT Lease Payments). The Board reserves the right to authorize and issue obligations after the date hereof that are payable with Net Revenues and on parity with the BOT Lease Payments (the "Additional Junior Obligations") for the purposes of financing future additions, extensions and replacements of the Sewage Works, or to refund obligations, subject to satisfaction of the conditions set forth below at the time that any Additional Junior Obligations will be issued.

(a) All required payments into the Sinking Fund shall have been made in accordance with the provisions of this Resolution and the Bond Resolutions, and the interest on and principal of all bonds, all BOT Lease Payments and any other obligations of the District payable from a pledge of Net Revenues shall have been paid in accordance with their terms. The reserve requirement, if any, for any Additional Junior Obligations shall be satisfied for the Additional Junior Obligations either at the time of delivery of the Additional Junior Obligations or over a five year or shorter period, in a manner which is consistent with the requirements for funding the BOT Reserve Account.

(b) Either:

(i) the Net Revenues in the fiscal year immediately preceding the year in which the proposed Additional Junior Obligations will be issued were equal to, or in excess of, 125% of the maximum annual amount of: (A) the principal and interest requirements of the then outstanding Senior Bonds; plus (B) BOT Lease Payments; plus (C) debt service with respect to any then outstanding Additional Junior Obligations; plus (D) the debt service with respect to the proposed Additional Junior Obligations (the foregoing sum, the "Maximum Annual Payment Obligations"); or

(ii) prior to the issuance of the proposed Additional Junior Obligations, the Use Charges will be increased sufficiently such that the increased Use Charges, had they been in effect for the fiscal year immediately preceding the year in which the proposed Additional Junior Obligations will be issued, would have produced Net Revenues equal to, or in excess of, 125% of the Maximum Annual Payment Obligations.

(c) Payment Dates. Debt service (both principal and interest) and any mandatory sinking fund redemptions with respect to the proposed Additional Junior Obligations shall be payable semi-annually, on January 1 and July 1.

For purposes of determining whether the District meets the requirements of (b) above to issue Additional Junior Obligations, the records of District shall be analyzed, and reports of such records shall be prepared, by a certified public accountant or independent financial advisor employed by the District for that purpose.

10. Additional Senior Parity Bonds. The District may issue Additional Senior Parity Bonds only to the extent permitted pursuant to the Bond Resolutions and the resolutions adopted in connection with the issuance of any Additional Senior Parity Bonds.

11. Tax Covenants. It is the intent of the Board that, under Section 103 of the Internal Revenue Code of 1986 and the regulations in effect with respect thereto (the "Code"), as in effect on the date of the issuance of the BOT Obligations (the "Code"), the interest portion of each BOT Lease Payment shall be excludable from federal income tax (the "Tax Exclusion"). In order to preserve the Tax Exclusion, the District covenants and agrees that:

(a) The District shall not make any investment, or undertake any other action during the period that the BOT Obligations remain in effect, that: (i) would cause the BOT Lease Agreement to be an "arbitrage bond" within the meaning of Section 148 of the Code; or (ii) otherwise would result in the loss of the Tax Exclusion; provided that, if the BOT Lease Agreement is deemed to constitute an "arbitrage bond", then the District shall: (i) take such action as is necessary to rebate (or cause to be rebated) to the United States the amount required by Section 148 of the Code; and (ii) set aside in trust funds (which, notwithstanding anything to the contrary set forth herein, may be paid from investment income generated by the Funds) for such purposes; and

(b) District shall file an information report Form 8038-G with the Internal Revenue

Service as required by Section 149 of the Code.

The Transaction Documents will contain additional covenants and provisions with respect to the Tax Exclusion and the obligations of the District in connection therewith.

12. District Obligations. At all times when the BOT Obligations are outstanding, the District:

(a) shall comply with all applicable: (i) laws, statutes (including the BOT Statute and, as applicable, the Act), ordinances, and or resolutions (including, without limitation, this Resolution); (ii) governmental rules, regulations, and/or guidelines of or from: (A) governmental agencies, boards, commissions, or departments; and (B) judicial, administrative, or regulatory bodies; and (iii) judicial orders, consents, and/or decrees (collectively, the "Laws") in connection with the satisfaction of its obligations under the Transaction Documents;

(b) shall maintain the Sewage Works in good condition, and shall operate the Sewage Works in an efficient manner and at a reasonable cost;

(c) shall not mortgage, pledge, or otherwise encumber all or any portion of the Sewage Works;

(d) shall not sell, lease, or otherwise dispose of all or any portion of the Sewage Works, other than machinery, equipment, or other property that becomes worn out or obsolete, or that no longer is necessary in connection with the use and operation of the Sewage Works; and

(e) shall maintain, with reputable insurance companies licensed to do business in the State of Indiana: (i) insurance on the insurable portions of the Sewage Works, with coverages commensurate with those maintained by private entities engaged in businesses of a similar nature; and (ii) any other insurance required by the Laws to be maintained by it; provided that the District may elect to satisfy its insurance obligations through the maintenance of a self-insurance program with catastrophic or similar coverage, so long as such program meets the requirements of the Laws and is maintained in a manner consistent with programs maintained by similarly situated municipalities. All insurance proceeds and condemnation awards shall be used to replace or repair the Sewage Works.

13. Transaction Documents. The Transaction Documents shall: (a) require the BOT Project to be constructed in accordance with the BOT Lease Agreement and all Laws; (b) permit inspections of construction of the BOT Project by the District, and the District shall engage a qualified professional to conduct such inspections; (c) provide that, if the final plans and the budget for the BOT Project have not yet been completed, then such final plans and budget shall be subject to the approval of the District; and (d) contain such other terms and conditions as the Authorized Individual, the Developer, and the Bank jointly determine to be necessary or reasonably appropriate; provided that, in no event shall the Authorized Individual execute a BOT Lease Agreement under which the aggregated principal amounts of the BOT Lease Payments exceed \$4,700,000.00.

14. Trust. This Resolution shall be deemed to create a trust: (a) in the Payment Rights Sale Proceeds for the purpose of ensuring use of the Payment Rights Sale Proceeds in accordance with the Transaction Documents, and the Bank, as the holder of the Payment Rights, shall be deemed to have and retain a lien on the Payment Rights Proceeds until substantial completion of the BOT Project; and (b) in the Net Revenues required to be transferred into the Sinking Fund for the purpose of ensuring that such Net Revenues are used as required by Section 6, and, pursuant to the Transaction Documents, the Bank will have the right to exercise any remedies available at law or in equity in connection with a default by the District thereunder that continues beyond any applicable cure period.

15. Other Actions. The Authorized Individual and the officers of the Board hereby are authorized to take any and all actions, including executing and delivering any documents or certificates, that the Authorized Individual or any such officer deems to be necessary or reasonably appropriate to effect the resolutions set forth herein. Any such actions taken, including any documents or certificates executed and delivered, hereby are ratified, confirmed, and approved.


16. No Conflict. All ordinances, resolutions, and orders (or parts thereof) that conflict with the provisions of this Resolution hereby are repealed to the extent of such conflict. After the issuance of the BOT Obligations, and until all BOT Lease Payments have been paid (or prepaid) in full: (a) this Resolution shall not be repealed or amended; and (b) the Board shall not adopt any ordinance or resolution that has an adverse effect on this Resolution. This Resolution shall not be amended and/or restated if the result is that the rights of the Bank, as the holder of the Payment Rights, are adversely affected; provided that this Resolution may be amended or restated if the Board determines, in its sole discretion, that such amendment or restatement would not have an adverse effect on the Bank, as the holder of the Payment Rights. The provisions of this Resolution shall not be construed or interpreted in any manner as adversely affect the rights of the holders of the Outstanding Parity Bonds to the first lien pledge of Net Revenues.


17. Severability. If any section, paragraph, or provision of this Resolution is held to be invalid or unenforceable for any reason, then the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Resolution.

18. Effectiveness. This Resolution shall be in full force and effect from and after its passage.

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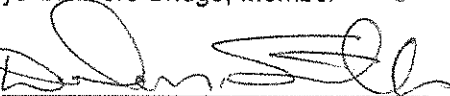
PASSED AND ADOPTED by the Board of Sanitary Commissioners of the Muncie Sanitary District at a public meeting held on June 30, 2021.

By: 
Stephen Bfand, President

By: 
Brian Stephens-Hotopp, Vice President

By: 
Joseph Evans, Member

By: 
Tonya Brothers-Bridge, Member

By: 
David Smith, Member