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CITY OF MADISON, WISCONSIN

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RESOLUTION \_\_\_\_\_

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AUTHORIZING AND AWARDED \$13,135,000  
TAXABLE SEWER SYSTEM REVENUE BONDS,  
SERIES 2010-F (BUILD AMERICA BONDS – DIRECT PAY),  
AND ESTABLISHING  
INTEREST RATES THEREON

Adopted: December 14, 2010

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**A RESOLUTION** providing for the issuance and award of \$13,135,000 principal amount of Taxable Sewer System Revenue Bonds, Series 2010-F (Build America Bonds – Direct Pay), of the City of Madison, Wisconsin; prescribing the form and other details and providing for the collection and disposition of the revenues to be derived from the municipal sewer system of said City; making other provisions with respect to the operation of the system and the issuance of the bonds; providing for the security and payment of the bonds; and prescribing other matters pertaining thereto.

**WHEREAS** the City of Madison, Wisconsin (the “City”), a body corporate and politic organized and existing under the laws of the State of Wisconsin, now owns and operates a municipal sewer system (the “System”); and

**WHEREAS** it is now necessary to provide various improvements with respect to the System (the “Project”); and

**WHEREAS** in order to provide the necessary funds to pay the cost of the Project, it is necessary to borrow the sum of \$13,135,000; and

**WHEREAS** under the provisions of Chapter 66 of the Wisconsin Statutes, any city may by action of its governing body provide for constructing and improving a sewer system from the proceeds of bonds payable from the income and revenues derived from the operation of said system; and

**WHEREAS** pursuant to Resolution No. 60,710 adopted on July 15, 2003 (the “2003 Resolution”), the City issued its Sewer System Revenue Bonds, Series 2003-A, in the original aggregate principal amount of \$6,565,000 (the “Series 2003 Bonds”); and

**WHEREAS** pursuant to Resolution No. RES-06-00091 adopted on February 7, 2006 (the “2006 Resolution”), the City issued its Sewer System Revenue Bonds, Series 2006-A, in the original aggregate principal amount of \$8,725,000 (the “Series 2006 Bonds”), and

**WHEREAS** pursuant to Resolution No. RES-08-01026 adopted on November 18, 2008 (the “2008 Resolution”), the City issued its Sewer System Revenue Bonds, Series 2008-B, in the original aggregate principal amount of \$11,195,000 (the “Series 2008 Bonds”), and

**WHEREAS** the City proposes by this resolution, among other things, to authorize the issuance of \$13,135,000 Taxable Sewer System Revenue Bonds, Series 2010-F (Build America Bonds – Direct Pay) (the “Series 2010 Bonds”), to prescribe the form of the Series 2010 Bonds and other details thereof and provide for the collection and disposition of the revenues to be derived from the municipal sewer system and the security and payment of the Series 2010 Bonds; and

**WHEREAS** pursuant to advertised public sale, the following sealed bids were received for the Series 2010 Bonds on December 14, 2010, by 10:00 A.M., local time:

Name of Bidder ( <u>Account Manager</u> )	<u>True Interest Rate</u>
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SEE ATTACHED

; and

**WHEREAS** it has been determined that the highest and best bid for the Series 2010 Bonds was that of Morgan Keegan & Company, Inc., Memphis, Tennessee, a true copy of which bid is attached hereto; and

**WHEREAS** it is now necessary to award the Series 2010 Bonds to the successful bidder and to establish the interest rates thereon:

**NOW, THEREFORE**, Be It Resolved by the Common Council of the City of Madison, Wisconsin, as follows:

**Section 1. Authority.** The Series 2010 Bonds herein authorized shall be issued pursuant to Article XI, Section 3, of the Wisconsin Constitution, Section 66.0621, Wisconsin Statutes, and other applicable provisions of law.

**Section 2. Definitions.** The following terms shall have the following meanings in this resolution unless the text expressly or by necessary implication requires otherwise:

“Bond” or “Bonds” means any bond or bonds authenticated and delivered pursuant to the 2003 Resolution, the 2006 Resolution, the 2008 Resolution or this resolution, including the Series 2003 Bonds, the Series 2006 Bonds, the 2008 Bonds, the Series 2010 Bonds and any Parity Bonds;

“Bondowner” or “holder” or “owner,” or words of similar import, means, when used with reference to a Bond, the registered owner of such Bond;

“City” means the City of Madison, Dane County, Wisconsin;

“Common Council” means the Common Council of the City, and any body, board or commission that may hereafter succeed to its powers, duties and functions;

“Current Expenses” means the reasonable and necessary cost of operating, maintaining and repairing the System, including the cost of sewerage treatment, salaries, wages, cost of

materials and supplies, insurance and audits, but shall exclude depreciation, replacements, in lieu of tax payments, and payments into the Special Redemption Fund;

“Debt Service” means, as of any particular date of computation and with respect to a particular Fiscal Year, the sum of (a) all interest payable on June 1 and December 1 of such Fiscal Year on all Bonds Outstanding, exclusive of interest payable from amounts set aside from Bond proceeds and deposited in the Special Redemption Fund, (b) the principal amount of all Bonds Outstanding that mature on December 1 of such Fiscal Year and (c) the amount of all mandatory redemption payments, if any, payable on December 1 of such Fiscal Year; all calculated on the assumption that Bonds will cease to be Outstanding only by reason of the payment thereof when due and the payment when due and application in accordance with this resolution of mandatory redemption payments;

“Department” means the Madison Engineering Division and any body, board or commission that may hereafter succeed to its powers, duties and functions;

“Fiscal Year” means the twelve-month period beginning on January 1 of each calendar year and ending on December 31 of such calendar year;

“Interest Account” means the Account by that name established within the Special Redemption Fund pursuant to Section 9 of the 1997 Resolution;

“Interest Payment Date” means any June 1 or December 1 on which interest on any Bond is payable;

“Maximum Annual Debt Service” means, as of any date of computation, (a) when used with respect to the Bonds of any particular series, an amount equal to the greatest amount of Debt Service on the Bonds of such series for the then current or any future Fiscal Year, and (b) when used with respect to the Bonds of all series, an amount equal to the greatest amount of aggregate Debt Service on all Outstanding Bonds for the then current or any future Fiscal Year;

“Net Revenues” means Revenues, excluding any profits or losses on the sale or other disposition, not in the ordinary course of business, or fixed or capital assets, less Current Expenses;

“1997 Resolution” means the resolution establishing sewer system revenue bond accounts of the City adopted by the Common Council of the City on August 19, 1997.

“Outstanding,” when used with reference to Bonds, means, as of any date, all Bonds theretofore or thereupon being authenticated and delivered under this resolution or under any resolution authorizing Parity Bonds, except:

- (a) any Bonds cancelled by the City or by the Registrar at or prior to such date;

(b) any Bond (or portion thereof) for the payment or redemption of which there shall be set aside and held in trust pursuant to Section 19 hereof either:

(i) moneys in an amount sufficient to pay when due the principal or applicable redemption price thereof, together with all accrued interest;

(ii) securities, as described in Section 19 hereof, or obligations secured by such securities, in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications, as are necessary to provide moneys (whether as principal or interest) in an amount sufficient to pay when due the principal or applicable redemption price thereof, together with all accrued interest, or

(iii) any combination of (a) and (b) above,

and, if such Bond or portion thereof is to be redeemed, for which notice of redemption has been given as provided in Section 4 hereof or provision satisfactory to the Registrar has been made for the giving of such notice;

(c) any Bond in lieu of or in substitution for which another Bond has or other Bonds have been authenticated and delivered; and

(d) any Bond deemed to have been paid as provided in Section 19 hereof;

“Parity Bonds” means Bonds issued on a parity with the Series 2003 Bonds, the Series 2006 Bonds, the Series 2008 Bonds and the Series 2010 Bonds in accordance with the provisions of Section 12 hereof;

“Principal Account” means the Account by that name established within the Special Redemption Fund pursuant to Section 9 of the 1997 Resolution;

“Principal Payment Date” means any December 1 on which principal on any Bond is payable;

“Project” means capital improvements to the System;

“Qualified Investments” means any investments permitted by Section 66.0603(lm) Wisconsin Statutes;

“Registrar” means U.S. Bank National Association, or such successor registrar as may hereafter be designated by the City;

“Regular Record Date” means the 15th day of the calendar month next preceding an Interest Payment Date;

“Reserve Account” means the Account by that name established within the Special Redemption Fund pursuant to Section 9 of the 1997 Resolution;

“Reserve Account Asset” means any letter of credit, line of credit, insurance policy, surety bond or similar instrument held in the Reserve Account in lieu of the deposit therein of moneys;

“Reserve Requirement” means, as of any particular date of computation, a sum equal to the lesser of (i) ten percent of the aggregate principal amount of proceeds of the Bonds or (ii) the Maximum Annual Debt Service on the Bonds then Outstanding;

“Revenues” means all revenues, rentals and income of the System from whatever source, including all revenues derived from the operation of the System; landfill remediation fees; proceeds from the sale of property; proceeds of insurance and condemnation awards and compensation for damages, to the extent not applied to the payment of the cost of repairs, replacements and improvements; and all amounts realized from the investment of money in the Accounts and Funds created by this resolution;

“Series 2010 Bonds” means the \$13,135,000 Taxable Sewer System Revenue Bonds, Series 2010-F (Build America Bonds – Direct Pay), of the City initially dated the date of their delivery, authorized to be issued by this resolution;

“Special Redemption Fund” means the Fund by that name established pursuant to Section 9 of the 1997 Resolution;

“State” means the State of Wisconsin;

“System” means the entire sewer system of the City and all sewer system properties of every nature now or hereafter owned by the City, including all improvements and extensions made by the City while any of the Bonds remain Outstanding, including all real and personal property of every nature comprising part of or used or useful in connection with such sewer system, including buildings and including all appurtenances, contracts, leases, franchises and other intangibles; and

“Underwriters” means the purchasers of any Bonds.

**Section 3. Authorization and Terms of Bonds.** For the purpose of providing the money necessary to pay the cost of the Project, the Series 2010 Bonds of the City shall be issued and sold in the principal amount \$13,135,000. The Series 2010 Bonds shall be designated “Taxable Sewer System Revenue Bonds, Series 2010-F (Build America Bonds – Direct Pay).” The Series 2010 Bonds shall be numbered consecutively from number one upwards in order of their issuance and may bear such designations as may be useful for identification. Each Series 2010 Bond shall be dated as of the Interest Payment Date to which interest has been paid as of the date on which it is authenticated or, if it is authenticated prior to June 1, 2011, it shall be dated the date of its delivery. The Series 2010 Bonds shall mature and bear interest from their respective dates, payable on June 1, 2011, and on each December 1 and June 1 thereafter at the rates set forth in the table below:

<u>Year</u>	<u>Amount</u>	<u>Rate (%)</u>
2011	\$805,000	0.800
2012	790,000	1.250
2013	800,000	1.950
2014	805,000	2.250
2015	815,000	3.125
2016	825,000	3.625
2017	840,000	3.700
2018	855,000	4.000
2019	870,000	4.200
2025	5,730,000	4.900

It is hereby found and declared that the above schedule of maturities of the Series 2010 Bonds is such that the amount of annual debt service payments to be made or provided for pursuant thereto will be reasonable in accordance with prudent municipal utility management practices.

The Bonds shall be issuable only in the form of fully registered Bonds without coupons, in denominations of \$5,000 or any integral multiple thereof. Interest on the Bonds shall be payable to the registered owner as shown on the registry books of the City kept for such purpose at the office of the Registrar as the name of such owner appears on the Regular Record Date.

Subject to the foregoing provisions of this Section, each Bond delivered under this resolution upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, that were carried by such other Bond, and each such Bond shall bear interest from such date in order that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

The Bonds shall be payable, both principal and interest, in lawful money of the United States of America at the principal corporate trust office of the Registrar.

The Bonds shall be executed in the name and on behalf of the City by the manual or facsimile signature of the Mayor, countersigned by the manual or facsimile signature of the City Clerk, and sealed with the corporate seal of the City or a facsimile thereof. In case any officer of the City who shall have signed or sealed any Bond shall cease to be such officer before the Bond so signed or sealed shall have actually been delivered and issued, such Bond may be delivered and issued with the same effect as though the person who had signed and sealed such Bond had not ceased to be an officer of the City. Any Bond of a series may be signed and sealed on behalf of the City by such persons as at the actual time of the execution of such Bond shall be duly authorized or hold the proper office in the City, although at the date of the Bonds of such series, such person may not have been so authorized or have held such office.

The Bonds of each series shall bear thereon a certificate of authentication, in the form set forth in this resolution or any supplemental resolution authorizing the Bonds, executed manually by the Registrar. No Bond shall be entitled to any right or benefit under this resolution nor shall it be valid or obligatory for any purpose until such certificate of authentication shall have been

duly executed by the Registrar. Such certificate of the Registrar upon any Bond executed on behalf of the City shall be conclusive evidence that the Bond so authenticated has been delivered under this resolution and that the owner thereof is entitled to the benefits hereof.

In case any Bond issued hereunder shall become mutilated, lost, stolen or destroyed, the City, in its discretion, may issue a new Bond of like tenor, amount, maturity and date, and bearing the same or a different number, in exchange and substitution for, and upon the cancellation of, the mutilated Bond, or in lieu of and substitution for such lost, stolen or destroyed Bond; or if any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond, the City may pay such Bond without surrender thereof. In every case the applicant shall furnish evidence satisfactory to the City; and the City may charge for the issue of such new Bond an amount sufficient to reimburse the City for the expense incurred by it in the issue thereof.

The Bonds shall be payable, both principal and interest, in lawful money of the United States of America at the office of the Registrar in St. Paul, Minnesota, without deductions for exchange or collection charges.

**Section 4. Redemption Prior to Maturity.** The Series 2010 Bonds maturing on or after December 1, 2021 are subject to redemption prior to maturity at the option of the City as a whole or in part in any order of maturity and within any maturity by lot in a manner to be determined by the City, without restriction as to source of payment, on December 1, 2020, and on any date thereafter, at a redemption price consisting of the principal amount thereof plus accrued interest to of the date of redemption, without premium.

The Bonds maturing on December 1, 2025 (the “Term Bonds”) will be subject to mandatory redemption, in part by lot, from mandatory sinking fund payments on December 1 in each of the years and in the respective principal amounts set forth below, at a redemption price equal to the principal amount thereof to be redeemed plus accrued interest, if any, to the date of redemption:

<b>TERM BONDS DUE DECEMBER 1, 2025</b>	
<b>YEAR</b>	<b>AMOUNT</b>
2020	\$ 895,000
2021	915,000
2022	940,000
2023	965,000
2024	990,000
2025 (maturity)	1,025,000

If the City redeems any Term Bonds pursuant to optional redemption or purchases Term Bonds and cancels the same, then an amount equal to the principal amount of such Term Bonds so redeemed or purchased shall be deducted from the mandatory redemption requirement as provided for the Term Bonds in such order as the City shall determine.

The Bonds are also subject to extraordinary redemption in whole, but not in part, at a redemption price equal to par plus accrued interest to the redemption date, upon or on any date after the occurrence of a Determination of Ineligibility. A “Determination of Ineligibility” means (i) the enactment of legislation or the adoption of final regulations or a final decision, ruling or technical advice by any federal judicial or administrative authority which would have the effect of deeming, determining or rendering the Bonds not qualified for treatment as Qualified Build America Bonds under Section 54AA of the Internal Revenue Code of 1986 (the “Code”); (ii) the federal government discontinues the Build America Bonds direct payment program or reduces the refundable credit to the City with retroactive applicability to obligations issued prior to the date of such discontinuance or reduced refundable credit; or (iii) the receipt by the City of a written opinion of nationally recognized bond counsel selected by the City to the effect that the Bonds are not Qualified Build America Bonds under Section 54AA of the Code.

In the event that there shall be called for redemption less than all of a Bond, the City shall execute, and the Registrar shall deliver upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of like series, maturity and interest rate, in any authorized denomination as shall be requested by the registered owner of the Bond so surrendered.

Notice of intended redemption shall be given by registered or certified mail to the Registrar and to the registered owner of each Bond at the address of such owner shown on the Registrar’s bond register. Failure to give such notice to the owner of any Bond, or any defect therein, shall not affect the validity of any proceedings for the redemption of any other Bonds for which the proper notice was given.

All such redemption notices shall be given not less than 30 days nor more than 60 days prior to the date fixed for redemption.

**Section 5. Negotiability and Registration.** U.S. Bank National Association is hereby constituted and appointed the registrar and paying agent for the Series 2010 Bonds (the “Registrar”) of the City.

The City may at any time, at its option, replace U.S. Bank National Association as Registrar with a bank, trust company or national banking association designated by the City. The City covenants that it will maintain at the designated office of such bond registrar a place where Bonds may be presented for payment and registration of transfer or exchange and that it shall require that the Registrar maintain proper registration books and perform the other duties and obligations imposed upon it by this resolution and the Initial Resolution in a manner consistent with the standards, customs and practices of the municipal securities business.

Any Bond may be transferred pursuant to the provisions thereof by surrender of such Bond to the Registrar for cancellation, accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner in person or by his or her duly authorized attorney, and thereupon the City shall issue and the Registrar shall authenticate and, on behalf of the City, deliver at the office of the Registrar, or send by registered mail to the owner thereof at his expense, in the name of the transferee, a new Bond, of like series, form,

interest rate, principal amount and maturity. Within the limits of authorized denominations, one such Bond may be transferred for several such Bonds of like series, form, interest rate and maturity and for a like aggregate principal amount, and several such Bonds may be transferred for one or several such Bonds, respectively, of like series, form, interest rate and maturity and for a like aggregate principal amount.

The registered owner of any Bond may at any time surrender the same to the Registrar, with instructions of exchange satisfactory to the Registrar, and shall be entitled to receive in exchange therefor an equal aggregate principal amount of Bonds of the same series, interest rate and maturity and of authorized denominations; and the City will issue and the Registrar shall authenticate and, on behalf of the City, deliver at the office of the Registrar, or send by registered mail to the registered owner thereof at his expense, the Bonds necessary to make such exchange.

No charge shall be made to any Bondowner for the privilege of registration, transfer or exchange, but any Bondowner requesting any such registration, transfer or exchange shall pay any tax or governmental charge required to be paid with respect thereto.

The person in whose name any Bond shall be registered shall be deemed the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Bond shall be made only to or upon the order of the registered owner thereof, or his or her legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City nor the Bond Registrar shall be affected by any notice of the contrary.

In order to provide for the initial issuance of the Series 2010 Bonds in a form that provides for a system of book-entry only transfers, the ownership of one fully registered Series 2010 Bond for each maturity in the aggregate principal amount of such maturity shall be registered in the name of Cede & Co., as a nominee of The Depository Trust Company, New York, New York ("DTC"). In the event that the City determines that the system of book-entry-only transfers through DTC (or a successor securities depository) is not in the best interests of the Beneficial Owners (as hereinafter defined) of the Series 2010 Bonds or is burdensome to the City, the City may notify DTC, whereupon DTC will notify the DTC Participants (as hereinafter defined) of the availability through DTC of Series 2010 Bond certificates. In such event, the City shall issue and the Registrar shall authenticate, transfer and exchange Series 2010 Bond certificates as requested by DTC of like principal amount, series and maturity, in denominations of \$5,000 or any integral multiple thereof to the identifiable Beneficial Owners, in replacement of such Beneficial Owners' beneficial interests in the Series 2010 Bonds. For the purposes of this paragraph, the term "Beneficial Owners" shall mean (a) those persons for whom DTC was created to hold their securities ("DTC Participants"), and (b) the persons for whom the DTC Participants acquire interests in the Series 2010 Bonds as nominees.

**Section 6. Bonds Payable Solely From Net Revenues.** The Bonds, together with interest thereon, shall be payable only out of the Special Redemption Fund as provided herein and shall be a valid claim of the holders thereof only against the Special Redemption Fund and the Net Revenues of the System pledged to such Fund; and sufficient Net Revenues are hereby

pledged to the Special Redemption Fund and shall be used for no purpose other than to pay the principal of and interest on Bonds payable therefrom as the same fall due. No recourse shall be had for the payment of the Bonds, or interest thereon, or any part thereof, against the general fund of the City, nor shall the credit or taxing power of the City be deemed to be pledged thereto. The Bonds, and interest thereon, shall not be a debt of the City, nor a charge, lien or encumbrance, legal or equitable, upon any property of the City or upon any income, receipts or revenues of the City other than the Net Revenues of the System pledged pursuant to this resolution to the payment thereof. The Bonds shall contain on their face a statement that the City shall not be liable for the payment of the Bonds except from the sources provided hereunder and that the Bonds are payable solely from the Net Revenues of the System.

**Section 7. Form of Series 2010 Bond.** The Series 2010 Bonds shall be in substantially the following form, the omissions to be appropriately completed when the Series 2010 Bonds are printed:

(Form of Face of Series 2010 Bond)

REGISTERED  
NO. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

United States of America

State of Wisconsin

County of Dane

CITY OF MADISON

Taxable Sewer System Revenue Bond  
Series 2010-F (Build America Bonds – Direct Pay)

DATED DATE	INTEREST RATE	MATURITY DATE	CUSIP

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The CITY OF MADISON (the “City”), a lawfully incorporated municipality situate in the County of Dane, Wisconsin, for value received, hereby promises to pay, solely from the income and revenues hereinafter specified, to the registered owner hereof, or registered assigns as provided herein, on the Date of Maturity set forth above, the principal amount set forth above, and to pay interest on the unpaid principal amount at the rate per annum set forth above from the later of the Dated Date of this Bond or the most recent interest payment date to which interest has been paid, such interest being payable on June 1, 2011, and semiannually thereafter on December 1 and June 1 of each year until all outstanding principal hereof is paid.

Interest is payable to the person in whose name this bond is registered at the close of business on the 15th day of the calendar month next preceding each interest payment date (“Record Date”).

Principal of and interest on this bond are payable in lawful money of the United States of America. Payments of interest will be paid by check mailed to the registered owner of record at the address of such owner appearing on the registration books maintained by the City for such purpose at the office of U.S. Bank National Association, in the City of St. Paul, Minnesota, as bond registrar or its successor (the “Registrar”). Principal when due shall be paid upon surrender of this bond at the office of the Registrar.

Additional provisions of this bond are set forth on the additional pages appended hereto.

This bond is a special obligation of the City and does not constitute an indebtedness of the City within the meaning of the Constitution of the State of Wisconsin or a pledge of the faith and credit of the City, but is payable solely from the Net Revenues (as such term is defined in the Resolution) of the sewer system of the City (the "System"), which have been set aside as a special fund for that purpose and identified as the "Special Redemption Fund" created by the 1997 Resolution (as herein described). The issuance of this bond shall not directly, indirectly or contingently obligate the City to levy or to pledge any taxes whatever therefor or to make any appropriation for its payment except from the Net Revenues of the System set aside in the Special Redemption Fund as provided in the Resolution.

This bond shall not be valid or obligatory for any purpose or be entitled to any right or benefit under the Resolution hereinafter referred to until the Certificate of Authentication thereon shall have been duly executed by the Registrar.

It is hereby certified, recited and declared that all acts, conditions and things required to be done, exist and be performed precedent to and in the issuance of this bond in order to make it a legal, valid and binding obligation of the City have been done, exist and have been performed in regular and due time, form and manner as required by law; and that this bond, together with the issue of which it is a part, does not exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, the City, by its Common Council, has caused this bond to be executed by the manual or facsimile signature of its Mayor, countersigned by the manual or facsimile signature of its City Clerk, and sealed with the corporate seal of the City or a facsimile thereof, all as of the Dated Date set forth above.

**CITY OF MADISON**

\_\_\_\_\_  
Mayor

(SEAL)

Attest:

\_\_\_\_\_  
City Clerk

(Form of Certificate of Authentication)

Date of authentication: \_\_\_\_\_, \_\_\_\_\_.

This bond is one of the Bonds described in the within-mentioned Resolution and is one of the Taxable Sewer System Revenue Bonds, Series 2010-F (Build America Bonds – Direct Pay) of the City of Madison, Wisconsin.

**U.S. BANK NATIONAL ASSOCIATION**  
as Registration and Paying Agent

By \_\_\_\_\_  
Authorized Officer

(Form of Reverse of Series 2010 Bond)

This bond is one of a total authorized issue of \$13,135,000 aggregate principal amount of bonds designated “Taxable Sewer System Revenue Bonds, Series 2010-F (Build America Bonds – Direct Pay)” (the “Bonds”) issued to provide the moneys needed to pay the cost of capital improvements with respect to the sewer system, under authority of and in full compliance with the constitution and statutes of the State of Wisconsin, including Article XI, Section 3, of the Wisconsin Constitution, and Section 66.0621, Wisconsin Statutes, and under and pursuant to resolutions duly adopted by the Common Council of the City on August 19, 1997 (the “1997 Resolution”), July 15, 2003 (the “2003 Resolution”) February 7, 2006 (the “2006 Resolution”), November 18, 2008 (the “2008 Resolution”), and December 14, 2010 (the “2010 Resolution”).

The Bonds maturing on or after December 1, 2021 are subject to redemption prior to maturity at the option of the City as a whole, or in part in any order of maturity and within any maturity by lot in a manner to be determined by the City, without restriction as to source of payment, on December 1, 2020, and on any date thereafter, at a redemption price consisting of the principal amount thereof plus accrued interest to the date of redemption, without premium.

The Bonds maturing on December 1, 2025 (the “Term Bonds”) will be subject to mandatory redemption, in part by lot, from mandatory sinking fund payments on December 1 in each of the years and in the respective principal amounts set forth below, at a redemption price equal to the principal amount thereof to be redeemed plus accrued interest, if any, to the date of redemption:

**TERM BONDS DUE DECEMBER 1, 2025**

<b>YEAR</b>	<b>AMOUNT</b>
2020	\$ 895,000
2021	915,000
2022	940,000
2023	965,000
2024	990,000
2025 (maturity)	1,025,000

If the City redeems any Term Bonds pursuant to optional redemption or purchases Term Bonds and cancels the same, then an amount equal to the principal amount of such Term Bonds so redeemed or purchased shall be deducted from the mandatory redemption requirement as provided for the Term Bonds in such order as the City shall determine.

The Bonds are also subject to extraordinary redemption in whole, but not in part, at a redemption price equal to par plus accrued interest to the redemption date, upon or on any date after the occurrence of a Determination of Ineligibility. A “Determination of Ineligibility” means (i) the enactment of legislation or the adoption of final regulations or a final decision, ruling or technical advice by any federal judicial or administrative authority which would have the effect of deeming, determining or rendering the Bonds not qualified for treatment as Qualified Build America Bonds under Section 54AA of the Internal Revenue Code of 1986 (the “Code”); (ii) the federal government discontinues the Build America Bonds direct payment

program or reduces the refundable credit to the City with retroactive applicability to obligations issued prior to the date of such discontinuance or reduced refundable credit; or (iii) the receipt by the City of a written opinion of nationally recognized bond counsel selected by the City to the effect that the Bonds are not Qualified Build America Bonds under Section 54AA of the Code.

Notice of intended redemption shall be given by registered or certified mail to the Registrar and to the registered owner of each Bond at the address of such owner shown on the Registrar's bond register. Failure to give such notice to the owner of any Bond, or any defect therein, shall not affect the validity of any proceedings for the redemption of any other Bonds for which the proper notice was given. Notice of redemption having been given as aforesaid, the Bonds so called for redemption shall become due and payable at the applicable redemption price herein provided. If, on the redemption date, moneys for the redemption of all the Bonds to be redeemed, together with interest to the redemption date, shall be available therefor on said date and if notice of redemption shall have been mailed as aforesaid, then from and after the redemption date interest on the Bonds so called for redemption shall cease to accrue and shall become payable.

All such redemption notices shall be given not less than 30 days nor more than 60 days prior to the date fixed for redemption.

The Bonds are issuable only as fully registered bonds without coupons in the denominations of \$5,000 or any integral multiple thereof. Bonds in the denomination of more than \$5,000 may be redeemed in part from time to time in one or more units of \$5,000 in the manner and with the effect provided in the Resolution. Bonds are exchangeable for bonds of the same series, interest rate and maturity, of other authorized denominations, upon presentation thereof for such purpose by the registered owner at the principal office of the Registrar and upon payment of charges and otherwise as provided in the Resolution.

Subject to the provisions for registration and transfer contained herein and in the Resolution, this bond shall be transferable by the registered owner at the principal office of the Registrar upon surrender and cancellation of this Bond, and thereupon a new bond of the same series, principal amount, interest rate and maturity will be issued to the transferee as provided in the Resolution and upon payment of the transfer charges therein prescribed. The City and the Registrar and any other person may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment hereof, and for all other purposes, and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

As provided in the Resolution, bonds ranking on a parity with the Bonds ("Parity Bonds") may be issued from time to time pursuant to supplemental resolutions in one or more series of various principal amounts. The City has heretofore issued as Parity Bonds its Sewer System Revenue Bonds, Series 2003-A, under the 2003 Resolution, its Sewer System Revenue Bonds, Series 2006A, under the 2006 Resolution, and its Sewer System Revenue Bonds Series 2008-B, under the 2008 Resolution. All Bonds and Parity Bonds issued and to be issued under the 2003 Resolution, the 2006 Resolution, the 2008 Resolution and the 2010 Resolution are and will be equally secured by the pledges and covenants made therein except as otherwise expressly provided and permitted in the 2003 Resolution, the 2006 Resolution, the 2008 Resolution and the 2010 Resolution. The Resolution is hereby referred to for a more complete statement of the

income and revenues from which this bond is payable, the conditions under which additional obligations may be issued on a parity with this bond, the manner in which the Resolution may be amended and the general covenants and provisions pursuant to which this bond is issued.

This bond is subject to the provisions for registration contained in the Resolution and is a negotiable instrument under the laws of the State of Wisconsin, and, subject to such provisions for registration, nothing contained in this bond or in the Resolution shall affect or impair the negotiability of this bond.

(Form of Assignment)

For value received, \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the within-mentioned bond and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to transfer the same on the books of registration in the principal office of the Bond Registrar, with full power of substitution in the premises.

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

Witness: \_\_\_\_\_

Note: The signature on this assignment must correspond to the name as written on the face of the within bond in every particular, without alteration, enlargement or any change whatsoever.

**Section 8. Equality of Lien.** The punctual payment of principal of and interest on the Bonds shall be secured equally and ratably by the Net Revenues without priority by reason of series, number or time of sale or delivery, and the Net Revenues are hereby irrevocably pledged to the punctual payment of such principal and interest as the same become due.

**Section 9. Application of Revenues and Creation of Funds.** From and after the delivery of any Bonds hereunder, and as long as any of the Bonds shall be Outstanding, the entire Revenues of the System shall be applied as provided in this Section.

All Revenues shall be deposited in a fund established pursuant to Section 9 of the 1997 Resolution, known as the Sewer System Revenue Fund (the "Revenue Fund") and shall be disbursed only as follows:

(a) *Payment of Current Expenses.* First for the payment of Current Expenses as the same become due and payable and for the accumulation of an operating reserve in the Revenue Fund in an amount equal to one-twelfth (1/12) of the Current Expenses budgeted for the current Fiscal Year pursuant to Section 10(j) hereof, which reserve may be used during the month for the payment of Current Expenses.

(b) *Deposits Into Special Redemption Fund.* Next to make deposits into a separate and special Fund to pay principal of and interest on the Bonds as the same become due and to maintain a reserve for such payment as hereinafter set forth. Said Fund shall be known as the Sewer System Special Redemption Fund (the "Special Redemption Fund"), which shall be divided into three separate Accounts to be known, respectively, as the Interest Account, the Principal Account and the Reserve Account.

(1) *Interest Account.* On or before each Interest Payment Date, there shall be deposited into the Interest Account an amount that will be sufficient to pay the interest coming due on all of the Outstanding Bonds on such Interest

Payment Date. Money in the Interest Account shall be used solely to pay interest on the Bonds as the same comes due.

(2) *Principal Account.* On or before each Principal Payment Date, there shall be deposited into the Principal Account an amount that will be sufficient to pay the principal of the Outstanding Bonds coming due on such Principal Payment Date or subject to mandatory redemption thereon. Money in the Principal Account shall be used solely to pay principal of the Bonds either at maturity or upon call for redemption.

(3) *Reserve Account.* An initial deposit into the Reserve Account in an aggregate amount equal to the Reserve Requirement shall be made on the date of issuance of the Series 2010 Bonds from Bond proceeds or funds of the City, as determined by the City Comptroller. From and after the date of issuance of the Series 2010 Bonds, to the degree required to correct any deficiency in the Reserve Account, an amount equal to the difference between the Reserve Requirement and any current amount maintained in the Reserve Account shall be deposited in the Reserve Account on each Interest Payment Date from available Net Revenues after the required payments have been made to the Interest Account and the Principal Account until the required balance has been attained. Upon the issuance of Parity Bonds an additional amount may be immediately deposited into the Reserve Account (and credited to such subaccount therein as shall be specified in the supplemental resolution authorizing such Parity Bonds) sufficient to meet the Reserve Requirement (determined after giving effect to the issuance of such Parity Bonds). When the amount in the Reserve Account shall be equal to or exceed the Reserve Requirement as to all Outstanding Bonds, no further deposit need be made into the Reserve Account except to maintain said Account at such level. Whenever it shall become necessary to use money in the Reserve Account, the payments required above shall immediately be continued or resumed and replaced therein from the first available money until amounts therein shall have been restored to the required minimum. Reserve Account Assets or moneys (or a combination of both) may be used to satisfy the Reserve Requirement. Moneys deposited in the Reserve Account to cure any deficiency therein shall be used first to repay the provider of a Reserve Account Asset any amount due such provider, including interest. Except as otherwise provided in the next preceding sentence, money in the Reserve Account shall be used solely for the purpose of paying interest on the Bonds, or the principal thereof at maturity or upon call for mandatory redemption, for the payment of which insufficient money shall be available in the Interest Account or the Principal Account, as the case may be.

All moneys in the Special Redemption Fund shall constitute trust funds irrevocably pledged for the payment of the principal of, interest upon and redemption premiums, if any, on the Outstanding Bonds, and such moneys shall, under no circumstances, be utilized for any other purpose until all of the Bonds shall have been retired or provision for the retirement thereof duly made in accordance with the provisions of this resolution.

(c) *Payment of Subordinate Indebtedness.* Next to be used to pay principal of and interest (including reasonable reserves therefor) on any other obligations or indebtedness that by their terms are payable from the Revenues of the System but are subordinate to the Bonds and have been issued for the purpose of renewals, replacements, extensions or improvements to the System.

(d) *Use of Surplus Moneys.* All moneys thereafter remaining in the Revenue Fund on any Interest Payment Date shall be considered surplus and may be used for any lawful purpose of the Department, including the making of payments into the general fund of the City in lieu of ad valorem taxes.

Money in the Revenue Fund shall be transferred and paid into the various Funds and Accounts hereinbefore referred to in the order in which said Funds and Accounts are listed, on a cumulative basis, and if at any time the money in the Revenue Fund shall be insufficient to place the required amount in any of said Funds and Accounts the deficiency shall be made up thereafter after payment into all Funds and Accounts enjoying a prior claim to the Revenues shall have been met in full.

Money in the Revenue Fund shall be transferred and paid into the various Funds and Accounts hereinabove referred to as of each Interest Payment Date or otherwise as may be required for the purposes of such Funds and Accounts.

All of the Funds and Accounts provided by this Section shall be kept on deposit with a bank or banks that shall be members of the Federal Deposit Insurance Corporation and shall be secured to the fullest extent required by law.

Money on deposit in any of the Funds and Accounts created hereby may be invested in Qualified Investments, all such obligations to mature not later than the date on which the money so invested shall be required for the purpose of the Fund or Account from which the investment was made. Moneys on deposit in the Reserve Account shall be invested in Qualified Investments having maturities no longer than five years from the dates of such investment. All income derived from such investments shall be deposited into the Revenue Fund and shall, to the extent so deposited, be regarded as Revenues; *provided, however,* that income derived from the investment of money on deposit in any construction fund or account established in whole or in part with the proceeds of Parity Bonds for the purpose of providing for the payment of the cost of extending, improving or replacing the System may, if and to the extent so required by the provisions of the supplemental resolution authorizing such Parity Bonds, be retained in such fund or account and used for the purposes for which such fund or account was established. Such investments shall at any time necessary be liquidated and the proceeds thereof applied to the purpose for which the respective fund was created.

**Section 10. Covenants Regarding the Operation of the System.** The City hereby covenants and agrees with each and every owner of the Bonds that:

(a) *Maintenance of the System.* The City will maintain the System in good condition and will operate the System in an efficient manner and at reasonable cost; and

operation, maintenance, supervision and control of the System by the Department shall be continued to the full extent permitted or required by law.

(b) *Charges for Service.* The reasonable cost and value of any service rendered to the City by the System by furnishing services for public purposes shall be charged against the City and shall be paid for as the service accrues, out of the current revenues of the City collected or in the process of collection, exclusive of the revenues derived from the System, and out of taxes levied by the City to meet its necessary operating expenses. Such compensation for such service rendered to the City shall, in the manner hereinabove provided, be paid into the Revenue Fund and shall be subject to apportionment to the various Accounts in the Special Redemption Fund in the manner herein provided.

The City will permit no free service to be furnished to any consumer or user whatsoever; and the rates for all services rendered by the System to the City and its residents and to all users shall be reasonable and just, taking into account and consideration the cost and value of the System and the cost of maintaining and operating the System and the amounts necessary for the payment of principal of and interest on the obligations payable from such Revenues; and there shall be charged against all persons receiving services rendered by the System, to the extent permitted by law, such rates and charges as will produce Revenues that are at least sufficient in each Fiscal Year to meet the requirements of paragraphs (a) through (d) of Section 9 of this resolution.

(c) *Insurance.* The City shall at all times maintain with responsible insurers all such insurance as is customarily maintained with respect to utility systems of like character against loss of or damage to the System and against public and other liability to the extent reasonably necessary to protect the interests of the City and the Bondholders. If any useful part of the System shall be damaged or destroyed, the City shall, as expeditiously as may be possible, commence and diligently prosecute the repair or replacement of the damaged property so as to restore the same to use. The proceeds of any such insurance shall be payable to the City and shall be applied to the necessary costs involved in such repair and replacement and, to the extent not so applied, shall be deposited in the Reserve Account to the extent, if any, necessary to cause the amount on deposit in the Reserve Account to be equal to the Reserve Requirement and thereafter shall be deposited in the Revenue Fund.

(d) *Books and Accounts; Annual Audits.* The City will cause to be kept proper books and accounts adapted to the System, will cause the books and accounts to be audited annually by a recognized firm of independent certified public accountants and will make generally available to the owners of any of the Outstanding Bonds the balance sheet and the profit and loss statement of the System as certified by such accountants. Each such audit, in addition to whatever matters may be thought proper by the accountants to be included therein, shall include at least the following:

(1) a statement in detail of the Revenues and expenditures of the System, and the excess of Revenues over expenditures, for the Fiscal Year;

(2) a balance sheet as of the end of the Fiscal Year;

(3) the accountants' comments regarding the manner in which the City has carried out the requirements of this resolution and the accountants' recommendations with respect to any change or improvement in the operation of the System;

(4) the accountants' comments regarding the insurance policies in force at the end of the Fiscal Year, setting out as to each policy the amount of the policy, the risks covered, the name of the insurer and the expiration date of the policy and, particularly, the adequacy as to the amount and types of such insurance policies;

(5) the number of customers of the System at the end of the Fiscal Year;

(6) the disposition of any Bond proceeds during the Fiscal Year; and

(7) the accountants' statement as to all breaches or defaults by the City of its covenants hereunder of which the accountants have knowledge, or that they have no knowledge of any such breach or default.

All expenses incurred in the making of the audits required by this paragraph shall be regarded and paid as a Current Expense. The City will furnish or cause to be furnished copies of such audits to the Underwriters and to the owner of any of the Bonds, upon written request to the City, within 270 days after the close of each Fiscal Year, and, in addition, shall cause to be furnished to the Underwriters and the owner of any Bond who has so requested in writing current operating statements covering operations of the System. The owners of any of the Bonds shall have at all reasonable times the right to inspect the System and the records, accounts and data of the City relating thereto. If the City shall fail to provide the audits and reports required by this subsection, the Underwriters or the owner or owners of 25% in principal amount of the Outstanding Bonds may cause such audits and reports to be prepared at the expense of the City.

(e) *Rate Covenant.* The City will faithfully and punctually perform all duties with reference to the System required by the constitution and laws of the State, including the making and collecting of reasonable and sufficient rates for services rendered by the System as above provided and will segregate the Revenues and apply the Revenues to the Funds specified in this resolution. Prior to the commencement of each Fiscal Year, the City will require the Department to estimate the Revenues for the Fiscal Year next succeeding, based on rates then in effect, and to report such estimate to the City; and the City will increase or adjust such rates to the extent necessary (i) to produce Revenues sufficient to provide for the payment of Current Expenses and any required deposits into the Reserve Account during the next succeeding Fiscal Year and (ii) to produce Net Revenues for the next succeeding Fiscal Year equal to not less than 1.25 times Debt Service payable during the next succeeding Fiscal Year on the Outstanding Bonds.

(f) *Sale or Encumbrance of System Properties.* Except for the pledge of Net Revenues and the other covenants of the City set forth in this resolution or in any resolution supplemental hereto granted for the benefit of the owners of the Bonds, the City will not sell, mortgage or in any manner dispose of the System, or any part thereof, including any and all extensions and additions that may be made thereto, until all of the Bonds have been paid in full as to both principal and interest; *provided, however*, that this covenant shall not be construed to prevent the disposal by the City of property (i) that in its judgment has become inexpedient to use in connection with the System, when other property of equal value shall be substituted therefor or when the proceeds of the disposition of such property shall be placed in the Revenue Fund, and (ii) in connection with the transfer of the System as a whole to another municipal agency or public body.

(g) *Fidelity Bonds.* Each officer and employee of the City having custody of funds of the System shall be under fidelity bond at all times in an amount not less than applicable statutory requirements.

(h) *No Competing Franchise.* The City will not grant a franchise to any competing sewer system (unless such grant is compelled or becomes necessary under applicable law) until all of the Bonds shall have been paid in full as to both principal and interest; *provided, however*, that this covenant shall not be construed to prevent the City from contracting with other municipal corporations or public or private bodies for the provision of sewer service.

(i) *Enforcement of Rates and Collection of Charges.* The City will diligently enforce and collect all fees, rates or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates or other charges that shall become delinquent to the full extent permitted by law.

(j) *Annual Budgets.* The City will, prior to the beginning of each Fiscal Year, prepare and adopt a budget of estimated Revenues and Current Expenses for the System for the ensuing Fiscal Year and will undertake to operate the System within such budget to the best of its ability. Copies of such budgets and amendments will be made available to the Underwriters and any Bondowner upon written request to the City. Current Expenses incurred in any Fiscal Year will not exceed the reasonable and necessary amounts therefore, and the City will not expend any amounts or incur any obligations therefor in excess of the amounts provided for Current Expenses in the budget except upon resolution by the Common Council determining that such additional expenses are necessary to operate and maintain the System.

**Section 11. Remedies of Bondholders.** Except as herein expressly limited, the owner or owners of the Bonds shall have and possess all the rights of action and remedies afforded by the common law, the constitution and statutes of the State and of the United States of America for the enforcement of payment of their Bonds, and of the pledge of the Net Revenues made hereunder, and of all covenants of the City hereunder, including all the benefits and rights granted by Section 66.0621, Wisconsin Statutes.

The owners of 25% in principal amount of the Bonds shall have, in addition to all other remedies and rights of owners of such Bonds, the right, by appropriate proceedings in any court of competent jurisdiction in the event of default in the payment of principal or interest, to obtain the appointment of a receiver for the System, which receiver may enter upon and take possession of the System and fix rates and collect all Revenues arising therefrom in as full a manner and to the same extent as the City might do. The receiver shall collect and dispose of such Revenues in accordance with the terms and conditions of this resolution and as the court shall direct.

**Section 12. Prior Lien and Parity Bonds.** The Bonds shall enjoy complete parity of lien on the Net Revenues despite the fact that any of the Bonds may be delivered at an earlier date than any other of the Bonds. The City will issue no other bonds or obligations of any kind or nature payable from or enjoying a lien or claim on the Revenues of the System having priority over the Bonds.

Additional bonds may be issued on a parity and equality of rank with the Bonds with respect to the lien and claim of such additional bonds to the Net Revenues of the System and the money on deposit in the funds and accounts created by this resolution, for the following purposes and under the following conditions, but not otherwise:

(a) Without regard to the requirements of paragraph (b) of this Section 12:

(1) for the purpose of refunding any of the Bonds that shall have matured or have become subject to mandatory redemption or that shall mature or become subject to mandatory redemption not later than three months after the date of delivery of such refunding Bonds and for the payment of which there shall be insufficient money in the Special Redemption Fund; or

(2) for the purpose of refunding any Outstanding Bonds under circumstances not resulting in the defeasance of all of the Bonds pursuant to Section 20 hereof, provided that the Maximum Annual Debt Service computed with respect to all Bonds to be Outstanding as of the date of issuance of such refunding Bonds (and after giving effect to the application of the proceeds thereof) shall not be greater than one hundred five percent (105%) of the Maximum Annual Debt Service computed with respect to all Bonds Outstanding as of the date immediately preceding the issuance of such refunding Bonds.

(b) For the purpose of refunding any Outstanding Bonds under circumstances not resulting in the defeasance of all of the Bonds pursuant to Section 19 hereof, and/or for the making of improvements, extensions, renewals or replacements to the System, if all of the following conditions shall have been met:

(1) the Net Revenues of the System for the last completed Fiscal Year for which audited financial statements are available immediately preceding the issuance of such proposed Parity Bonds, as evidenced by the annual audits required by Section 10(d) hereof, must have been equal to at least 1.25 times Maximum Annual Debt Service computed with respect to the Parity Bonds proposed to be issued and all Outstanding Bonds other than any Bonds intended

to be refunded by the proposed Parity Bonds; *provided, however*, that if prior to the authorization of such Parity Bonds the City shall have adopted and put into effect a revised schedule of rates for services furnished by the System, then the Net Revenues for the Fiscal Year immediately preceding, as certified by an independent certified public accountant or an independent financial advisory service not in the employ of the City on a salary basis, that would have resulted from such rates had they been in effect for such period, may be used in lieu of the actual Net Revenues for such Fiscal Year;

(2) The payments required to be made into the various Funds and Accounts provided in Section 9 hereof must be current; and

(3) The additional bonds must be payable as to principal on December 1 of each year in which principal falls due and payable as to interest on June 1 and December 1 of each year.

**Section 13. Sale of Series 2010 Bonds.** The circulation of an Official Statement and an Official Notice of Sale prepared by Springsted Incorporated, St. Paul, Minnesota, the sale of \$13,135,000 Taxable Sewer System Revenue Bonds, Series 2010-F (Build America Bonds – Direct Pay), to Morgan Keegan & Company, Inc., Memphis, Tennessee, at a price of \$13,058,691.65, and accrued interest to the date of delivery are hereby ratified and confirmed.

**Section 14. Execution and Delivery; Borrowed Money Fund.** The Series 2010 Bonds shall be executed by the Mayor and the City Clerk in the manner heretofore provided, and upon authentication by the Registrar, shall thereupon be delivered by the City Clerk to the purchaser upon payment of the purchase price. The principal proceeds from the sale of the Series 2010 Bonds shall be paid into the City treasury and entered in a fund separate and distinct from all other funds, which fund shall be designated “Sewer System Revenue Bonds, Series 2010-F (Taxable Sewer System Revenue Bonds, Series 2010-F (Build America Bonds – Direct Pay), Borrowed Money Fund.” Money in said fund shall be used solely for the purposes for which the Series 2010 Bonds were issued, including repayment of any temporary loan or reimbursement of any temporary advance made in anticipation of the issuance of said Series 2010 Bonds.

**Section 15. Disposition of Series 2010 Bond Proceeds.** The Mayor and City Clerk are hereby authorized and directed to cause the Series 2010 Bonds to be prepared and to execute and deliver the Series 2010 Bonds to the purchasers thereof upon payment therefor; and the principal proceeds from the sale of the Series 2010 Bonds shall be used only for the purposes and in the manner required by law and by resolution of this Common Council. The proceeds may be invested in the manner permitted by law, subject to the restrictions contained in the next succeeding section.

**Section 16. Tax Covenants.**

(a) [The City shall neither take nor omit to take any action that is lawful and within its power to take, which action or omission would cause interest on any Series 2010 Bond to be included in the gross income of the holders thereof for federal income tax purposes.]

(b) The City shall not permit any of the proceeds of the Series 2010 Bonds, or of any facility financed with such proceeds, to be used in any manner that would cause any Series 2010 Bond to be a “private activity bond” within the meaning of Section 141 of the Internal Revenue Code of 1986 (the “Code”).

(c) The City shall not permit any of the proceeds of the Series 2010 Bonds or any other moneys to be invested in any manner that would cause any Series 2010 Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code.

**Section 17. Resolution a Contract.** The provisions of this resolution shall constitute a contract between the City and the owners of the Bonds, and after the issuance of any of the Bonds, no change, variation or alteration of any kind in the provisions of this resolution shall be made in any manner, except as provided in the following section, until such time as all of the Bonds shall have been discharged and satisfied as provided in Section 19 hereof.

**Section 18. Amendment of Resolution.**

(a) This resolution may be amended without the consent of or notice to the owners of the Bonds for the purpose of curing any ambiguity or formal defect or omission herein or in connection with the issuance of Parity Bonds as authorized by Section 12 hereof.

(b) In addition to amendments of this resolution without the consent of the owners of the Bonds as referred to in subsection (a) above, this resolution may be amended from time to time if such amendment shall have been consented to by the owners of not less than two-thirds in principal amount of the Bonds at any time Outstanding (not including in any case any Bonds that may then be held or owned by or for the account of the City), but this resolution may not be so amended in such manner as to:

- (1) make any change in the maturity or interest rate of the Bonds, modify the terms of payment of principal of or interest on the Bonds or any of them or impose any conditions with respect to such payment;
- (2) affect materially the rights of the owners of less than all of the Bonds then outstanding; or
- (3) reduce the percentage of the principal amount of Bonds the consent of the owners of which is required to effect a further amendment.

Whenever the City shall propose to amend this resolution under the provisions of this Section, it shall cause notice of the proposed amendment to be mailed by the City Clerk to the Underwriters and to the owner of each Bond then Outstanding. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory resolution is on file in the office of the City Clerk.

Whenever at any time within one year from the date of the mailing of said notice there shall be filed with the City Clerk an instrument or instruments executed by the owners of at least

two-thirds in aggregate principal amount of the Bonds then Outstanding as in this Section defined, which instrument or instruments shall refer to the proposed amendatory resolution described in said notice and shall specifically consent to and approve the adoption thereof, thereupon, but not otherwise, the Common Council may adopt such amendatory resolution, and such resolution shall become effective and binding upon the owners of all the Bonds.

Any consent given by the owner of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the instrument evidencing such consent and shall be conclusive and binding upon all future owners of the same Bond during such period. Such consent may be revoked at any time after six months from the date of such instrument by the owner who gave such consent or by a successor in title by filing notice of such revocation with the City Clerk.

The fact and date of the execution of any instrument under the provisions of this Section may be proved by the certificate of any officer in any jurisdiction who by the laws thereof is authorized to take acknowledgments of deeds within such jurisdiction, that the person signing such instrument acknowledged before him the execution thereof or may be proved by an affidavit of a witness to such execution sworn to before such officer.

**Section 19. Defeasance.** The covenants, liens and pledges entered into, created or imposed pursuant to this resolution may be fully discharged and satisfied with respect to the Bonds, or any of them, in any one or more of the following ways:

- (a) by paying such Bonds when the same shall become due and payable;
- (b) by depositing with the Registrar, in the manner provided by this resolution and for such purpose, at or before the date of maturity or redemption, money in the necessary amount to pay or redeem such Bonds; and/or
- (c) by depositing in trust with a bank or trust company authorized to do business in the State, and for such purpose, at or before the date of maturity or redemption, securities in an amount sufficient, including any income or increment to accrue thereon to the date or dates of maturity thereof (or, if such securities are subject to redemption prior to maturity otherwise than at the option of the owner thereof, to the earliest date or dates on which such securities are subject to redemption), but without the necessity of any reinvestment, to pay or redeem such Bonds, in accordance with their terms, but such securities shall be limited to direct obligations of, or obligations the full and timely payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America.

Upon such payment or deposit in the amount and manner provided by this Section (provided that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Section 4 hereof, or adequate provision shall have been made for the giving of such notice), such Bonds shall no longer be deemed Outstanding for purposes of this resolution; the covenants, liens and pledges hereunder shall be discharged with respect to such Bonds; all liability of the City with respect to such Bonds shall

cease, determine and be completely discharged; and the owners thereof shall be entitled only to payment out of the money or securities so deposited.

**Section 20. Continuing Disclosure.** In connection with the sale of the Series 2010 Bonds, the City Comptroller or his designee (an “Authorized Officer”) is hereby authorized to execute and deliver a Continuing Disclosure Undertaking (the “Continuing Disclosure Undertaking”) evidencing the City’s agreement to comply with the requirements of Section (b)(5) of Rule 15c2-12, adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934. Upon its execution and delivery on behalf of the City as herein provided, the Continuing Disclosure Undertaking will be binding on the City, and the officers, employees and agents of the City are hereby authorized to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Continuing Disclosure Undertaking as executed. Any Authorized Officer is hereby further authorized to amend the Continuing Disclosure Undertaking in accordance with its respective terms from time to time following its execution and delivery as said officer shall deem necessary. In addition, an Authorized Officer is authorized to make or cause to be made all future filings with the Municipal Securities Rulemaking Board with respect to any debt obligations, all in accordance with the provisions of Securities and Exchange Commission Rule 15c2-12(b)(5) promulgated under the Securities Exchange Act of 1934. Notwithstanding any other provision of this Resolution, the sole remedies for any failure by the City to comply with the Continuing Disclosure Undertaking shall be the ability of the beneficial owner of any applicable Series 2010 Bond to seek mandamus or specific performance by court order to cause the City to comply with its obligations under the Continuing Disclosure Undertaking.

**Section 21. No Recourse on the Bonds.** No recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon or under this resolution against any member of the Common Council or officer of the City, or any person executing the Bonds, in his individual capacity.

**Section 22. Continued Validity.** If any section, paragraph or provision of this resolution shall be invalid or ineffective for any reason, the remainder of this resolution shall remain in full force and effect, it being expressly hereby found and declared that the remainder of this resolution would have been adopted by the Common Council despite the invalidity of such section, paragraph, clause or provision.

**Section 23. Repeal of Conflicting Resolutions and Effective Date.** All resolutions and orders, or parts thereof, in conflict with the provisions of this resolution, are, to the extent of such conflict, hereby repealed, and this resolution shall be in immediate effect from and after its adoption.

Adopted and approved this 14<sup>th</sup> day of December, 2010, by roll call vote as follows:

Ayes:

Nays:

Absences:

Approved: \_\_\_\_\_, 2010

\_\_\_\_\_  
Mayor

(SEAL)

Attest:

\_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Maribeth Witzel-Behl, hereby certify that I am the qualified and acting City Clerk of the City of Madison, Wisconsin, and that I am the legal custodian of the papers and records of the City, and as such officer I further certify that I have compared the attached resolution with the original minutes of the meeting of the Common Council of the City held on December 14 2010, at which meeting a quorum was present and acting throughout, and that such resolution is a complete and correct copy of a resolution duly adopted at said meeting and authorizing the issuance and confirming the sale of \$13,135,000 of the City's Taxable Sewer System Revenue Bonds, Series 2010-F (Build America Bonds –Direct Pay).

I further certify that said resolution was approved by Mayor David J. Cieslewicz, on December \_\_, 2010, and that I recorded said resolution in the records kept in my office.

I further certify that notice to the public and to the official City newspaper and to those news media that have filed a written request for such notice, of the time, place and subject matter of the Common Council meeting of December 14, 2010, was given by the Mayor or his or her designee pursuant to Subchapter V of Chapter 19, Wisconsin Statutes, by posting a written notice thereof at a public bulletin board in the City Hall, and by such other means as was reasonably likely to apprise the members of the public and the news media thereof, all such notices having been given not less than 24 hours prior to the commencement of said meeting.

WITNESS my official signature and the corporate seal of the City this \_\_\_\_ day of December, 2010.

\_\_\_\_\_  
City Clerk

(SEAL)