
CITY OF OWENSBORO, KENTUCKY

ELECTRIC LIGHT AND POWER SYSTEM

ORDINANCE REGARDING DEFEASANCE OF CERTAIN OUTSTANDING
ELECTRIC LIGHT AND POWER SYSTEM REVENUE BONDS, TAXABLE 2010-A SERIES

ORDINANCE No. ____4-2019____

Introduced to the Board of Commissioners
of the City of Owensboro on the 16th
day of April, 2019.

Adopted by the Board of Commissioners
Commissioners of the City of
Owensboro on the 7th day of May, 2019.

Published in Summary Form by the
Authority of the Board of
Commissioners of the City of Owensboro
on the ____ day of May, 2019.

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**ORDINANCE REGARDING DEFEASANCE OF CERTAIN OUTSTANDING
ELECTRIC LIGHT AND POWER SYSTEM REVENUE BONDS, TAXABLE 2010-A SERIES**

ORDINANCE No. 4-2019

An ORDINANCE providing for the defeasance of a portion of the
outstanding Electric Light and Power System Revenue Bonds,
Taxable 2010-A Series, of the City of Owensboro, Kentucky.

* * * *

PREAMBLES

WHEREAS

A. The City of Owensboro, Daviess County, Kentucky (the “City”), is a duly organized city of the home rule class pursuant to §156a of the Constitution of the Commonwealth of Kentucky as assigned by the General Assembly in Section 81.010 of the Kentucky Revised Statutes, and is authorized by Section 96.520 *et seq.* of the Kentucky Revised Statutes, which by reference includes the provisions of Sections 96.360 to 96.510, inclusive, and Section 82.082 of the Kentucky Revised Statutes (collectively, the “Act”) to own and operate on a revenue producing basis in accordance with the provisions of the Act, as supplemented by other provisions of Kentucky law, and the City for many years last past has owned and operated, its electric light and power system (the “*Electric Light and Power System*”) in accordance with the Act.

B. The management and operation of the Electric Light and Power System is controlled by a utility commission (the “*Utility Commission*”) created by ordinance adopted July 29, 1940, as amended, and functioning under the provisions of Section 96.530 of the Kentucky Revised Statutes for the assurance of the citizens of the City and the holders of revenue bonds heretofore and hereafter issued of an efficient management and control of the Electric Light and Power System.

C. The City has heretofore issued its Electric Light and Power System Revenue Bonds, Taxable 2010-A Series payable from and secured by the income and revenues of the Electric Light and Power System, such bonds currently outstanding as set forth and described and defined as follows:

SERIES	DATED	DEFINED HEREIN AS
2010-A (Taxable)	November 18, 2010	“2010-A Bonds”

which 2010-A Bonds were authorized pursuant to Ordinance Number 3-02 of the City, adopted by the City on January 22, 2002, including the Basic Ordinance Terms and Provisions included

as Appendix A thereto (the “*Basic Ordinance*”), and the further ordinance of the City supplemental thereto, the same being Ordinance No. 51-2010 adopted by the City on October 19, 2010 (the “*2010 Supplemental Ordinance*”), which 2010-A Bonds have a final maturity of January 1, 2022, and which 2010-A Bonds are Outstanding (as defined in the Basic Ordinance) as of the date hereof in the aggregate principal amount of \$10,070,000.

D. The 2010-A Bonds are all current as to the payment of both principal and interest and for the security for and payment of which all required sinking funds and reserves are being maintained, if applicable.

E. The Utility Commission has heretofore reported that it is necessary to provide for the defeasance of a portion of the Outstanding 2010-A Bonds maturing on January 1, 2021, in the amount of \$3,000,000 (the “*Defeased Bonds*” and the defeasance thereof being referred to herein as the “*Defeasance*”).

F. Pursuant to the Act and the Basic Ordinance, the City is authorized to provide for the Defeasance by (i) irrevocably depositing with the Escrow Holder an amount of Available Funds (as defined herein), which amount, in addition to the proceeds received from the investment thereof in Defeasance Obligations (as defined in the Basic Ordinance), shall be sufficient to pay when due and upon redemption prior to maturity the principal of and interest on the Defeased Bonds, (ii) giving the Escrow Holder (as defined herein) irrevocable instructions, to be accepted in writing by the Escrow Holder, to give proper notice for and on behalf of the City of redemption of the Defeased Bonds, (iii) giving the Escrow Holder in form satisfactory to it irrevocable instructions a notice for and on behalf of the City that the deposit required above has been made with the Escrow Holder and that the Defeased Bonds are deemed to have been paid in accordance with the Basic Ordinance and stating such redemption date upon which moneys are to be available for the payment of the redemption price on the Defeased Bonds

H. Whereas, in accordance with the terms of the Defeased Bonds, the Defeased Bonds may be called for redemption in advance of their maturity, and it is necessary and desirable to make such call for the redemption of such Defeased Bonds on their earliest possible call date, and provide for the giving of proper notice to the registered owners of such Defeased Bonds.

NOW, THEREFORE, Be It Ordained by the City of Owensboro, Kentucky, as follows:

Section I. Definitions. Words and terms used in this Ordinance shall have the meanings given them, unless the context or use clearly indicates another or different meaning is intended. Words and terms defined in the singular may be used in the plural and vice-versa. Reference to any gender shall be deemed to include the other and also inanimate persons such as corporations, where applicable.

A. The following words and terms are as defined in the preambles hereto.

Act

Basic Ordinance

City

Defeasance

Defeased Bonds

Electric Light and Power System

2010-A Bonds

2010 Supplemental Ordinance

Utility Commission

B. The following words and terms are defined as set forth in the preambles or below.

“Available Funds” means amounts that are or will be lawfully available on hand in the Sinking Fund and lawfully available in accordance with the Basic Ordinance for the payment of the Defeased Bonds in the amount necessary to effect the Defeasance on the date thereof.

“Escrow Account” means the account into which the Available Funds will be deposited, held by the Escrow Holder pursuant to the Escrow Agreement.

“Escrow Agreement” means the Escrow Deposit Agreement by and between the City and the Escrow Holder as authorized as part of the Defeasance and substantially in the form attached hereto as *Appendix A* and made a part hereof by this reference.

“Escrow Holder” means U.S. Bank National Association, with offices located in the City of Louisville, Kentucky, a bank having trust powers, or a successor thereto or a successor designated as Escrow Holder hereunder.

“Financial Advisor” means Stifel, Nicolaus & Company, Incorporated, duly appointed financial advisor to the Utility Commission for the Defeasance.

“Fiscal Year” means the twelve month period beginning June 1, and ending May 31, or as otherwise provided by the Utility Commission.

“Ordinance” means this Ordinance No. 4-2019.

C. Capitalized terms used herein but not defined in this Ordinance shall have the meanings ascribed thereto in the Basic Ordinance.

D. Definitions also appear in the preambles hereto or in specific sections, as appear below. The table of contents preceding and headings in this Ordinance are for the convenience of the reader and are not a part of this Ordinance.

Section 2. Incorporation of Preambles Hereto and Basic Ordinance. The City hereby finds that the recitals contained in the preambles to this Ordinance are true and correct and does incorporate them into this Ordinance by this reference.

Section 3. Authority; Determination to Effect Defeasance. The authority for this Ordinance is the Act and the Basic Ordinance. It is necessary and in the best interests of the City to effect the Defeasance; and it is hereby found and determined that the Defeasance is for a proper public purpose, is in the public interest, and is authorized by the Act and the Basic Ordinance.

Section 4. Deposit to Escrow Account; Authorization of Escrow Agreement; Other Acts. There shall be deposited the Available Funds for the purpose of the Defeasance in to the Escrow Account held by the Escrow Holder pursuant to the Escrow Agreement, all in accordance with the provisions of the Escrow Agreement substantially in the form attached hereto as *Exhibit A* and made a part hereof by such reference. The officers appearing signatory to such Escrow Agreement are hereby authorized and directed to execute the same, their execution to constitute conclusive proof of action in accordance with this Ordinance, and approval of all completions or revisions necessary or appropriate to effect the Defeasance, including the funding of the Escrow Account and purchase of Defeasance Obligations to be held under the Escrow Agreement. The Defeased Bonds shall be paid upon redemption prior to maturity. The officers of the City or the Utility Commission are hereby authorized to take such other acts as necessary to effect the Defeasance, including taking any action as is required by any bond insurer.

Section 5. Call of the Defeased Bonds. In accordance with the redemption provisions of the Basic Ordinance and the 2010 Supplemental Ordinance authorizing the issuance of the 2010-A Bonds, the City by the Board of Commissioners does hereby make provision for the payment of and does hereby call the Defeased Bonds for redemption on January 1, 2020.

Section 6. Purchase of the Defeasance Obligations. The Financial Advisor, the Escrow Holder and any bidding agent be and the same are each hereby authorized to act as agent for the City in the purchase of the Defeasance Obligations described and set forth in the Escrow Agreement.

Section 7. Effect of the Defeasance. Upon the execution of the Escrow Agreement and the deposit of the Available Funds into the Escrow Account, it is hereby represented and declared that in accordance with Section A37 of the Basic Ordinance Terms and Provisions, the Defeased Bonds shall be deemed to have been paid and to be no longer outstanding and the pledge of Revenues and other moneys and securities pledged under the Basic Ordinance and all covenants, agreements and other obligations of the City to the holders of the Defeased Bonds shall thereupon cease, terminate and become void and shall be discharged and satisfied.

Section 8. Severability. That if any section, paragraph, clause or provision of this Ordinance shall be held to be invalid or ineffective for any reason, the remainder thereof shall remain in full force and effect, it being expressly hereby found and declared that the remainder of this Ordinance would have been adopted despite the invalidity of such section, paragraph, clause or provision.

Section 9. Superseder; Effective Date. All ordinances, resolutions and orders, or parts thereof in conflict herewith are, to the extent of such conflict, hereby superseded; and this Ordinance shall take effect from and after its adoption, approval and publication as provided by law; and the City Clerk is hereby directed to file a certified copy of this Ordinance with the Utility Commission.

INTRODUCED: April 16, 2019

ADOPTED: May 7, 2019

COMMISSIONERS:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED: May 7, 2019

Mayor

ATTEST:

City Clerk

COMMONWEALTH OF KENTUCKY

SS

COUNTY OF DAVIESS

I, the undersigned, City Clerk of the City of Owensboro, in the County and Commonwealth aforesaid, do hereby certify that as such official I have in my possession or have access to the complete corporate records of said City, and that the attached Ordinance No. _4-2019, finally adopted by the Board of Commissioners of the City on May 7, 2019, and entitled:

An ORDINANCE providing for the defeasance of a portion of the outstanding Electric Light and Power System Revenue Bonds, Taxable 2010-A Series, of the City of Owensboro, Kentucky.

is a true, correct and complete copy of such Ordinance as the same appears in the official records of the City.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and the corporate seal of said City of Owensboro, Kentucky this ____ day of May, 2019.

City Clerk

[SEAL]

**RESOLUTION
OF THE CITY UTILITY COMMISSION
OWENSBORO MUNICIPAL UTILITIES**

WHEREAS, the City Utility Commission (the "*Utility Commission*") of the City of Owensboro, Kentucky (the "*City*") desires that the City provide for the payment of a portion of the City's outstanding Kentucky Electric Light and Power System Revenue Bonds, Taxable 2010-A Series (the "*Defeased Bonds*"); and

WHEREAS, in connection with the payment of the Defeased Bonds by the City (the "*Defeasance*"), it will be necessary for the Board of Commissioners of the City (the "*City Commissioners*") to adopt an ordinance authorizing the Defeasance (the "*Defeasance Ordinance*"), and such ordinance has been submitted to the Utility Commission; and

WHEREAS, in accordance with Section A19 of Ordinance Number 3-02 of the City, adopted by the City on January 22, 2002, including the Basic Ordinance Terms and Provisions included as Appendix A thereto (the "*Basic Ordinance*"), the Utility Commission may direct the use of Generally Available Moneys (as defined in the Basic Ordinance) to the retirement of Bonds (as defined in the Basic Ordinance), such as the Defeased Bonds:

NOW, THEREFORE, THE UTILITY COMMISSION HEREBY RESOLVES AS FOLLOWS:

1. The City Commissioners are hereby requested to introduce at their meeting on April 16, 2019 the Defeasance Ordinance entitled "*Ordinance Regarding Defeasance of Certain Outstanding Electric Light and Power System Revenue Bonds, Taxable 2010-A Series*" in substantially the form before this meeting authorizing the Defeasance.
2. The form of the Defeasance Ordinance, including Appendix A—Escrow Deposit Agreement, in substantially the form before this meeting with such changes therein as are approved by the officers of the City, the Chairman of the Utility Commission and/or the General Manager of Owensboro Municipal Utilities is hereby approved, and the City Commissioners are hereby requested to approve such documents and adopt the Defeasance Ordinance to authorize the Defeasance.
3. The Chairman, Vice Chairman, Secretary and Assistant Secretary of the Utility Commission and the General Manager and Director of Finance and Accounting of Owensboro Municipal Utilities or each of them are hereby authorized, ordered and directed to take any such action as may be necessary or desirable in connection with the Defeasance and the preparation of the aforesaid documents in final form, in order to carry out the purposes of this Resolution, including the deposit of any Generally Available Moneys held within the Sinking Fund (as defined in the Basic Ordinance) into the escrow account authorized in the Defeasance Ordinance as may be necessary to effect the Defeasance.

APPROVED BY UTILITY COMMISSION

3/21/19
BMS

4. This Resolution will take effect immediately upon its adoption.

DATED: March 21, 2019

CITY UTILITY COMMISSION
OWENSBORO MUNICIPAL UTILITIES











COMMONWEALTH OF KENTUCKY)
)
COUNTY OF DAVIESS)

CERTIFICATION OF RESOLUTION AND MINUTES

I, the undersigned, do hereby certify that I am the Secretary for the Board of Commissioners (the "*City Utility Board*") of the City Utility Commission (the "*Utility Commission*") of the City of Owensboro, in the County and Commonwealth aforesaid, and as such official I am the keeper of the records and files of the City Utility Board.

I do hereby further certify that the attached Resolution, duly adopted by the City Utility Board on March 21, 2019, at which meeting a quorum was in attendance at all times, is a true, correct and complete copy of such Resolution as the same appears in the official records of the Utility Commission.

I do hereby further certify that there is also attached a true, correct and complete transcript of the proceedings of the City Utility Board as had under date of March 21, 2019, insofar as such proceedings relate to the approval by the City Utility Board of such Resolution as the same appears in the official records of the Utility Commission.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and the corporate seal
of the Board of Commissioners of the City Utility Commission of the City of Owensboro,
Kentucky this 21 day of March, 2019.


Secretary

[SEAL]

STATE OF KENTUCKY)
) SS
COUNTY OF JEFFERSON)

CERTIFICATION AND RECEIPT OF ESCROW HOLDER

I, the undersigned, do hereby certify that I am _____ of U.S. Bank National Association, Louisville, Kentucky (the “*Escrow Holder*”), and as such officer I do further certify as follows:

1. That the Escrow Holder and the City of Owensboro, Daviess County, Kentucky (the “*City*”), have entered into an Escrow Deposit Agreement, dated as of May __, 2019 (the “*Agreement*”), concerning certain outstanding bonds of the City described in the Agreement (the “*Defeased Bonds*”).

2. That the Agreement is in full force and effect and has not been modified, repealed, rescinded or amended.

3. That pursuant to the Agreement, the City has irrevocably deposited the sum of \$ _____ with the Escrow Holder (the “*Deposit*”).

4. That the Deposit has been used (a) to purchase the obligations guaranteed by the full faith and credit of the United States of America as to principal and interest described in the schedule attached to the Agreement as Exhibit C (the “*Defeasance Obligations*”), and (b) to establish a beginning cash escrow deposit of \$ _____ for the Escrow Account created pursuant to the Agreement, and that the Deposit, together with the amounts to be received from the Defeasance Obligations, will be sufficient to pay the Defeased Bonds when due and upon redemption prior to maturity.

5. That the Escrow Holder will strictly comply with all of the terms and provisions of the Agreement, including, but not limited to, the terms and provisions thereof related to the giving of notice of the redemption of the Defeased Bonds.

6. That the Escrow Holder has all powers necessary under the applicable statutes, regulations and rulings and the governing body of the Escrow Holder has taken all action necessary to authorize the Escrow Holder to enter into the Agreement, and that the signatories to the Agreement on behalf of the Escrow Holder have been duly authorized to sign the Agreement on behalf of the Escrow Holder.

IN WITNESS WHEREOF, I hereunto affix my signature and the seal of the Escrow Holder,
this ____ day of May, 2019.

U.S. BANK NATIONAL ASSOCIATION
Louisville, Kentucky

By: _____

Title: _____

[SEAL]

**NOTICE OF DEFEASANCE OF CITY OF OWENSBORO, DAVIESS COUNTY, KENTUCKY
ELECTRIC LIGHT AND POWER SYSTEM REVENUE BONDS, TAXABLE 2010-A SERIES
DATED NOVEMBER 18, 2010
(THE “*SERIES 2010-A BONDS*”)**

NOTICE IS HEREBY GIVEN that for the payment of the principal of and interest on the Series 2010-A Bonds maturing on the dates and in the principal amounts, bearing interest at the rates per annum and bearing the CUSIP Numbers as set forth as follows:

MATURITY DATE (JANUARY 1)	OUTSTANDING PRINCIPAL AMOUNT (\$)	DEFEASED AMOUNT (\$)	INTEREST RATE (%)	CUSIP
2021	4,915,000	3,000,000	4.88	691021 KP3

(the “*Defeased Series 2010-A Bonds*”), the City of Owensboro, Daviess County, Kentucky (the “*City*”), has irrevocably deposited in trust with U.S. Bank National Association as (i) Bond Registrar (the “*Bond Registrar*”) under an ordinance adopted by the Board of Commissioners (the “*Board*”) of the City on January 22, 2002, as supplemented by an Ordinance adopted by the Board on October 19, 2010 (as supplemented and amended to the date hereof, the “*Bond Ordinance*”), and (ii) Escrow Holder (the “*Escrow Holder*”) under an Escrow Deposit Agreement dated as of May __, 2019 between the Board and the Escrow Holder (the “*Escrow Agreement*”), Current Funds and Defeasance Obligations (each as defined in the Bond Ordinance), which, together with the interest to be received therefrom, has been calculated, and verified by a firm of independent public accountants, to be sufficient to pay the principal of, premium, if any, and interest on the Defeased Series 2010-A Bonds when due and upon redemption prior to maturity on January 1, 2020, at the times and in the manner stated therein and in the Bond Ordinance, all in accordance with the provisions of the Bond Ordinance.

Said deposit and said payment have been made pursuant to the provisions of the Bond Ordinance.

Under the terms of the Bond Ordinance, the Defeased Series 2010-A Bonds are deemed to have been paid in accordance with the terms of the Bond Ordinance and cease to be entitled to any lien, benefit or security under the Bond Ordinance and all covenants, agreements and obligations of the City to the Holders of the Series 2010-A Bonds have ceased, terminated and become void and have been discharged and satisfied. The liability of the Board in respect to the Defeased Series 2010-A Bonds shall continue but the owners thereof shall hereafter be entitled to payment (to the exclusion of all other owners of Bonds issued under the Bond Ordinance) only out of the Current Funds and Defeasance Obligations deposited with the Bond Registrar and Escrow Holder, as described above.

Formal notice of the redemption of the Defeased Series 2010-A Bonds will be given by the Escrow Holder on behalf of the Board in accordance with the provisions of the Escrow Agreement prior to the date fixed for redemption. The Board has given the Escrow Holder irrevocable instructions to call the Defeased Series 2010-A Bonds for redemption prior to

maturity on January 1, 2020 (the “*Redemption Date*”), at a redemption price of 100% of the principal amount thereof. All of the Defeased Series 2010-A Bonds will be paid upon redemption on January 1, 2020.

THIS IS NOT A NOTICE OF REDEMPTION. THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT REQUIRE OR SOLICIT THE SURRENDER OR EXCHANGE OF THE DESCRIBED DEFEASED SERIES 2010-A BONDS. NOTICE OF THE PRIOR REDEMPTION OF THE DEFEASED SERIES 2010-A BONDS WILL BE DELIVERED IN ACCORDANCE WITH THE PROVISIONS OF THE ESCROW AGREEMENT.

By order of the City of Owensboro, Daviess County, Kentucky dated the ____ day of _____, 2019.

CITY OF OWENSBORO, DAVIESS COUNTY,
KENTUCKY

By: U.S. Bank National Association, as Bond
Registrar and Authorized Agent

ESCROW DEPOSIT AGREEMENT

This Escrow Deposit Agreement, dated as of May __, 2019, but actually executed and delivered the date last hereinbelow written, by and between the City of Owensboro, Daviess County, Kentucky, and U.S. Bank National Association, a national banking association, with corporate trust offices located in the City of Louisville, Kentucky, not individually but in the capacity as hereinafter described, for and in consideration of mutual covenants set forth:

W I T N E S S E T H :

ARTICLE I. DEFINITIONS

The following words and terms used in this Agreement shall have the following meanings unless the context or use clearly indicates another or different meaning.

“Aggregate Requirement” means the payment when due, on each interest payment date through January 1, 2020, of all interest on and principal and Redemption Price of the Defeased Bonds from the date hereof through such date.

“Agreement” means this Escrow Deposit Agreement, dated as of May __, 2019.

“Board of Commissioners” means the Board of Commissioners which is the governing body of the City.

“Bond Fund” means the Debt Service Account of the Sinking Fund of the City of Owensboro, being the account and fund from which the Defeased Bonds have been payable.

“Bond Insurer” means Assured Guaranty Municipal Corp., the issuer of municipal bond insurance policies securing the Defeased Bonds, or any successors thereto or assignees thereof.

“Bond Registrar” means U.S. Bank National Association, Louisville, Kentucky, the bond registrar for the Defeased Bonds.

“City” means the City of Owensboro, Daviess County, Kentucky.

“Defeasance Ordinance” means the ordinance passed by the Board of Commissioners on May 7, 2019, numbered _____ and entitled:

An ORDINANCE providing for the defeasance of a portion of the outstanding Electric Light and Power System Revenue Bonds, Taxable 2010-A Series, of the City of Owensboro, Kentucky.

authorizing the payment of the Defeased Bonds.

“Defeasance Report” means the report of Robert Thomas CPA LLC, independent certified public accountants, attached hereto as *Exhibit A*, that the principal of, interest on and profit realized from the Government Obligations, when received, and the beginning deposit on demand held hereunder will be sufficient to provide moneys to pay the Aggregate Requirement.

“Defeased Bonds” means, with respect to the 2010-A Bonds being paid hereunder, the bonds of such series set forth under the column headed “Amount to be Defeased” set forth in the definition of the term “2010-A Bonds.”

“Escrow Account” means the trust fund created under the terms of this Agreement with the Escrow Holder and comprised of the Government Obligations and a certain beginning deposit as more fully described in 2.02 hereof.

“Escrow Holder” means U.S. Bank National Association, a national banking association, with corporate trust offices located in the City of Louisville, Kentucky, not individually but in the capacity for the uses and purposes hereinafter mentioned, or any successor thereto.

“Government Obligations” means the direct non-callable obligations of the United States of America (being United States Bills, Notes, Bonds or STRPS) deposited hereunder from time to time.

“Initial Cash Deposit” means that certain deposit from the City to the Escrow Holder, in the amount of \$ _____, deposited on the date hereof, as further described in 2.02 hereof.

“*Paying Agent*” means the Bond Registrar with respect to the Defeased Bonds, as hereinabove noted.

“*Redemption Date*” means January 1, 2020.

“*Redemption Price*” means par plus accrued interest to the Redemption Date.

“*2010-A Bonds*” means the outstanding bonds of the City described as follows:

**ELECTRIC LIGHT AND POWER SYSTEM REVENUE BONDS,
TAXABLE 2010-A SERIES**

Original Principal Amount: \$10,070,000
Dated: November 18, 2010
Originally Due Serially: January 1, 2021 and 2022
Amount Outstanding: \$10,070,000
Due January 1 and described as follows:

YEAR	PRINCIPAL AMOUNT (\$)	INTEREST RATE (%)	AMOUNT TO BE DEFEASED (\$)
2021	4,915,000	4.88	3,000,000
2022	5,155,000	5.03	0

which bonds are subject to redemption prior to maturity, at the option of the City through the Utility Board, from any available funds, in whole or in part, on any date on or after January 1, 2020, at the redemption price of par plus accrued interest to the date of redemption.

“*Utility Board*” means the Board of Commissioners of Owensboro Municipal Utilities.

**ARTICLE II.
CREATION OF ESCROW**

Section 2.01. The City does hereby irrevocably deposit with the Escrow Holder moneys, as described below, sufficient to provide a beginning deposit and to acquire the Government Obligations which shall, collectively, be sufficient to provide moneys to pay the Aggregate

Requirement. The amounts hereunder shall be held in trust by the Escrow Holder for the payment of the Defeased Bonds.

Section 2.02. The City has deposited with the Escrow Holder at the execution and delivery of this Escrow Agreement the Initial Cash Deposit in the amount of \$_____ (the “*City Funds*”). The City Funds will be used to acquire the Government Obligations and provide a beginning deposit of \$_____. The open market purchase confirmations for these Government Obligations are attached hereto as *Exhibit B*.

Section 2.03. The Escrow Holder now holds the cash deposit of \$_____ and the Government Obligations described on *Exhibit C*.

ARTICLE III. COVENANTS OF ESCROW HOLDER

The Escrow Holder covenants and agrees with the City and the Utility Board as follows:

Section 3.01. The Escrow Holder will hold all amounts on deposit and all Government Obligations and all interest, income and profit derived therefrom in a segregated and separate trust fund account for the sole and exclusive benefit of the City and the Utility Board and of the holders and registered owners of the Defeased Bonds, all to the purposes for which escrowed.

Section 3.02. The Escrow Holder shall not be liable or responsible for loss in the value of any investment made pursuant to this Agreement, or for any loss, cost or penalty resulting from any authorized sale or liquidation of such investment. The Escrow Holder shall not be responsible for the accuracy or completeness of the Defeasance Report, nor shall it have any responsibility for monitoring whether any investment direction given by the Utility Board is consistent with the Defeasance Report.

All purchases of investments shall be on an established securities market. Such purchases shall follow standard market practice with no specially negotiated purchase terms.

Section 3.03. The Escrow Holder will promptly collect the principal of, interest on and income and profit from the Government Obligations and promptly apply the same along with such deposits as may be available solely and only to pay interest on and principal and Redemption Price of the Defeased Bonds so as to meet the Aggregate Requirement.

Section 3.04. The Escrow Holder will make no payment of fees, due or to become due, of the Bond Registrar or the Paying Agent, and the Utility Board and the City covenants to pay the same as they become due.

Section 3.05. The costs and expenses of the Escrow Holder will be paid by the Utility Board or the City from funds other than those deposited hereunder. The Escrow Holder shall have no lien or right of set-off of any kind on the Escrow Account and shall look solely to the Utility Board and the City for payment. The Escrow Holder shall charge such fees for its services as are reasonable and usual for like services rendered by similar institutions.

Section 3.06. The Escrow Holder has all the powers and duties herein set forth with no liability in connection with any act or omission to act hereunder, except for its own negligence or willful breach of trust, and shall be under no obligation to institute any suit or action or other proceeding under this Agreement or to enter any appearance in any suit, action or proceeding in which it may be defendant or to take any steps in the enforcement of its, or any, rights and powers hereunder.

Section 3.07. The Escrow Holder may in good faith buy, sell or hold and deal in the Defeased Bonds.

Section 3.08. The Defeased Bonds are hereby irrevocably called for redemption on the Redemption Date at the Redemption Price. The time, manner and form of giving notice of the call for redemption of the Defeased Bonds shall be as set forth in the respective ordinances of the City, adopted by the Board of Commissioners, pursuant to which the Defeased Bonds were

issued, and certified copy of which, by execution hereof, the Escrow Holder acknowledges receipt. The City has irrevocably instructed the Escrow Holder to give proper notice for and on behalf of the City of redemption of such Defeased Bonds on the Redemption Date, and the Escrow Holder hereby accepts such direction by this writing. On the date of execution and delivery of this Agreement, the Escrow Holder is the Paying Agent and Bond Registrar for the Defeased Bonds. The Escrow Holder shall act as agent for the City in performing all acts, giving or causing to be given all notices, and providing such directions to the Paying Agent and Bond Registrar to effect the payment and redemption of the Defeased Bonds as aforesaid. The City shall reimburse the Escrow Agent for any actual out of pocket expenses incurred in the giving of such notice, but the failure of the City to make such payment shall not in any respect whatsoever relieve the Escrow Agent from carrying out any of the duties, terms or provisions of this Agreement.

Section 3.09. The City has called the Defeased Bonds for redemption and payment prior to maturity on January 1, 2020. Promptly, upon the delivery of this Agreement, and in no event later than 10 calendar days from the date hereof, the Escrow Holder shall act as agent for the City in giving notice of the defeasance of the Defeased Bonds, in substantially the form set forth in *Exhibit D* hereto to the Municipal Securities Rulemaking Board (the “MSRB”) via the MSRB’s Electronic Municipal Market Access system or by such other method as at the time of giving such notice shall be directed or recognized by the Securities and Exchange Commission, and, further, to the Bond Insurer.

Section 3.10. The Escrow Holder will submit to the Director of Finance and Accounting of the Utility Board a statement within 30 days after the date of this Agreement and thereafter within 30 days of each receipt date in and payment date out of the Escrow Account, itemizing all

moneys received by it and all payments made by it under the provisions of this Agreement during the period of such statement.

Section 3.11. If at any time it shall appear to the Escrow Holder that the available proceeds of the Government Obligations and funds on deposit in the Escrow Account will not be sufficient to make any payment (whether interest or Redemption Price) due to the registered owners of any of the Defeased Bonds, as and to the extent provided herein, the Escrow Holder shall notify the Utility Board not less than 15 days prior to such date, and the Utility Board agrees that it will from any funds lawfully available for such purpose make up the anticipated deficit so that no default in the making of any such payment will occur.

ARTICLE IV. COVENANTS OF CITY OR THE UTILITY BOARD

The City and the Utility Board covenant and agree with the Escrow Holder as follows:

Section 4.01. The Escrow Holder shall have no responsibility or liability whatsoever for (a) any of the recitals of the City or the Utility Board herein, (b) the performance of or compliance with any covenant, condition, term or provision of the Defeasance Ordinance, and (c) any undertaking or statement of the City or the Utility Board hereunder or under said Defeasance Ordinance.

Section 4.02. The Utility Board or the City will promptly and without delay remit to the Escrow Holder such sums as will fully pay and discharge any obligation or obligations or charges, fees or expenses, including reasonable attorney's fees, incurred by the Escrow Holder in carrying out any of the duties, terms or provisions of this Agreement. The Utility Board or the City will promptly pay all Paying Agent and Bond Registrar fees.

**ARTICLE V.
IRREVOCABILITY OF AGREEMENT**

Section 5.01. All of the rights, powers, duties and obligations of the Escrow Holder hereunder shall be irrevocable and shall not be subject to amendment by the Escrow Holder and shall be binding on any successor to the Escrow Holder during the term of this Agreement.

Section 5.02. All of the rights, powers, duties and obligations of the City hereunder shall be irrevocable and shall not be subject to amendment by the City and shall be binding on any successor to the officials now comprising the Board of Commissioners of the City during the term of this Agreement.

Section 5.03. All of the rights, powers, duties and obligations of the Utility Board hereunder shall be irrevocable and shall not be subject to amendment by the Utility Board and shall be binding on any successor to the officials now comprising the Utility Board during the term of this Agreement.

**ARTICLE VI.
NOTICES**

Section 6.01. All notices and communications to the City and Utility Board shall be addressed in writing to:

Director of Finance and Accounting
Owensboro Municipal Utilities
2070 Tamarack Road
Owensboro, Kentucky 42301

or at such other address as is furnished from time to time by the City and Utility Board.

Section 6.02. All notices and communications to the Escrow Holder shall be addressed in writing to:

U.S. Bank National Association
CN-KY-0850
Louisville, Kentucky 40202

or at such other address as is furnished from time to time by the Escrow Holder.

ARTICLE VII.
MERGER OR CONSOLIDATION OF ESCROW HOLDER

Any banking association or corporation into which the Escrow Holder may be merged, converted or with which the Escrow Holder may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Escrow Holder shall be a party, or any banking association or corporation to which all or substantially all of the corporate trust business of the Escrow Holder shall be transferred, shall succeed to all the Escrow Holder's rights, obligations and immunities hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. In such event, the City shall have the right to appoint a successor Escrow Holder. The City may select as successor Escrow Holder any financial institution with capital, surplus and undivided profits of at least \$100,000,000 and having corporate trust offices within Kentucky, Minnesota, Illinois or New York, and which is authorized to maintain trust accounts for municipal corporations under applicable law.

ARTICLE VIII.
TERMINATION OF AGREEMENT

Upon the final disbursement for the payment of the Defeased Bonds as hereinabove provided for, the Escrow Holder will transfer any balance remaining in the Escrow Account to the City, and thereupon this Agreement shall terminate.

ARTICLE IX.
COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF the City has caused this Agreement to be signed in its name by its Mayor, to be attested by the City Clerk under its corporate seal hereunto affixed; and the Escrow Holder, not individually, but in the capacity as hereinabove described, has caused this Agreement to be signed in its corporate name, all this ____ day of May, 2019.

CITY OF OWENSBORO
DAVIESS COUNTY, KENTUCKY

By _____
Mayor

Attest:

City Clerk

[SEAL]

U.S. BANK NATIONAL ASSOCIATION
Louisville, Kentucky

By _____
Its _____

Attest:

Its _____

The foregoing Escrow Agreement has been received and acknowledged by me as of the date last written.

General Manager
Owensboro Municipal Utilities
City of Owensboro
Daviess County, Kentucky

EXHIBIT A

DEFEASANCE REPORT

EXHIBIT B

OPEN MARKET SECURITY PURCHASE CONFIRMATIONS

EXHIBIT C

GOVERNMENT OBLIGATIONS

EXHIBIT D

DEFEASANCE NOTICE