

RESOLUTION #2019-03-03

Lansing Board of Water and Light

Amendment to Amended and Restated Utility System Revenue Bond Resolution

A RESOLUTION TO AUTHORIZE:

- An amendment to the definition of “Reserve Requirement” in the Amended and Restated Bond Resolution.
- A corresponding amendment to the establishment of the Bond Reserve Account and amounts held therein set forth in the Amended and Restated Bond Resolution.

WHEREAS, the City of Lansing acting by and through the Lansing Board of Water and Light, has previously issued its utility revenue bonds payable from revenues of the water supply, steam, chilled water and electric utility system under the provisions of Act 94, Public Acts of Michigan, 1933, as amended; and

WHEREAS, the Board has previously issued its utility revenue bonds pursuant to the provisions of an Amended and Restated Resolution adopted on October 24, 1989, which has been amended or supplemented by fifteen supplemental resolutions; and

WHEREAS, on March 27, 2018, the Board approved an Amended and Restated Bond Resolution (the “Bond Resolution”) to replace the Amended and Restated Resolution adopted on October 24, 1989 and authorize the issuance of the Utility System Revenue Bonds, Series 2019 (the “Series 2019 Bonds”); and

WHEREAS, all terms not defined herein shall have the meanings set forth in the Bond Resolution; and

WHEREAS, the Board wishes to revise the definition of “Reserve Requirement” in the Bond Resolution based on certain long-term unenhanced credit ratings of its Outstanding Bonds, and adjust, accordingly, the establishment of the Bond Reserve Account and amounts held therein pursuant to Section 18(B) of the Bond Resolution; and

WHEREAS, upon the delivery of the Series 2019 Bonds in an amount sufficient to cause the Registered Owners of the Series 2019 Bonds to equal not less than fifty one percent (51%) in principal amount of the total Utility System Revenue Bonds then outstanding, the Bond Resolution would replace the Amended and Restated Bond Resolution adopted on October 24, 1989.

WHEREAS, pursuant to Section 28(a)(iv) of the Bond Resolution, upon written confirmation from each rating agency rating Outstanding Bonds to which the foregoing amendments to the Bond Resolution would apply that the adoption of such amendments will not result in the reduction or withdrawal of any ratings on such Bonds, the Board wishes to amend the Bond Resolution to revise the definition of “Reserve Requirement” and adjust, accordingly the Bond Reserve Account and amounts held therein;

NOW, THEREFORE, BE IT RESOLVED THAT:

Section 1. Amending Resolution. The Board hereby adopts this resolution thereby amending and supplementing the Bond Resolution upon the consent of not less than fifty one percent (51%) in principal amount of the total Utility System Revenue Bonds then outstanding, in accordance with Section 28(b) of the Resolution.

Section 2. Amendment to Definition of Reserve Requirement. The definition of “Reserve Requirement” in Section 1(z) of the Bond Resolution is hereby deleted and replaced with the following:

(z) “Reserve Requirement” shall mean the following: (i) if the long-term unenhanced credit ratings of the Outstanding Bonds are in at least the “A/A2” category without regard to notching factors (or an equivalent rating in at least the third highest category of nationally recognized bond rating agencies), \$0, only upon the written direction of the Chief Financial Officer; or (ii) if the long-term unenhanced credit ratings of the Outstanding Bonds are reduced below the “A/A2” category without regard to notching factors (or an equivalent rating in at least the third highest category of nationally recognized bond rating agencies), the lesser of (1) 50% of the

maximum annual debt service requirements on the Outstanding Bonds, (2) 62.5% of the average annual debt service requirements on the Outstanding Bonds, or (3) the total of 5% of the original aggregate face amount of each series of the Outstanding Bonds, reduced by the net original issue discount, if any; provided, however, that the Reserve Requirement shall not at any time exceed the amount allowed to be invested at an unrestricted yield pursuant to Treas. Reg. §1.148-2(f)(2) or any successor provision thereto applicable to the Bonds. For purposes of determining the Reserve Requirement, the long-term unenhanced credit ratings of the Outstanding Bonds shall be determined with regard only to the highest two long-term unenhanced ratings of such Bonds. Therefore, subsection (z)(ii) applies only if both such ratings are reduced below the “A/A2” category without regard to notching factors (or an equivalent rating as described above). The Board may rely on the advice of its financial advisor as to which rating category or categories its ratings are within.

Section 3. Amendment to Bond Reserve Account. Section 18(B), “BOND AND INTEREST REDEMPTION FUND” of the Bond Resolution is hereby deleted and replaced with the following:

B. BOND AND INTEREST REDEMPTION FUND: There shall be established and maintained a fund designated BOND AND INTEREST REDEMPTION FUND, the moneys on deposit therein from time to time to be used solely, except for required deposits to the Rebate Fund, for the purpose of paying the principal of, redemption premium, if any, and interest on the Bonds.

Out of the Revenues remaining in the Receiving Fund, after provision for the credit or deposit to the Operation and Maintenance Fund, there shall next be set aside, monthly, in the Redemption Fund a sum proportionately sufficient to provide for the payment of the principal of, mandatory redemption requirements, if any, and interest on the Bonds as and when the same shall become due and payable, subject to any credit therefor as provided in this Section 18(B). If there is any deficiency in the amount previously set aside, that deficiency shall be added to the requirements for the next succeeding month.

There shall be established a separate account in the Redemption Fund to be known as the BOND RESERVE ACCOUNT. If, as a result of a reduction in the long-term unenhanced credit ratings of the Outstanding Bonds to a category below “A/A2” without regard to notching factors (or an equivalent rating in at least the third highest category of nationally recognized bond rating agencies) as described in Section 1(z)(ii) (a “Ratings Downgrade Event”), the Reserve Requirement is increased from \$0, and amounts then held in the Bond Reserve Account are insufficient to meet the Reserve Requirement, then the Board must satisfy the Reserve Requirement either by:

- (i) transferring moneys to the Bond Reserve Account from an available source of funds (other than proceeds of Additional Bonds) an amount equal to the Reserve Requirement in six (6) semi-annual installments beginning on the date which is 180 days following the Ratings Downgrade Event; or
- (ii) purchasing a letter of credit, a surety bond, or an insurance policy within 180 days of the Ratings Downgrade Event; provided, however, the provider or issuer thereof shall be rated by any nationally recognized bond rating agency as high or higher than the Bonds at the time of purchase of the letter of credit, surety bond, or insurance policy; or
- (iii) transferring moneys to the Bond Reserve Account from proceeds of Additional Bonds within 180 days of the Ratings Downgrade Event; or

The Board must adopt a plan to satisfy the Reserve Requirement pursuant to either Subsection (i), (ii) or (iii) above within ninety (90) days of the Ratings Downgrade Event.

Except as otherwise provided in this Bond Resolution, the moneys credited to the Bond Reserve Account shall be used solely for the payment of the principal of, redemption premium, if any, and interest on the Bonds as to which there would otherwise be a default. If, at any time, it shall be necessary to use moneys credited to the Bond Reserve Account for such payment, then the moneys so used shall be replaced from the

Net Revenues first received thereafter which are not required for expenses of administration, operation, and maintenance of the System or for current principal and interest requirements on any of the Bonds.

If at any time the amount in the Bond Reserve Account exceeds the Reserve Requirement, the excess may be transferred to such fund or account as the Board may direct; provided, however, if the excess is allocable to proceeds of tax-exempt Outstanding Bonds (or proceeds of tax-exempt Bonds refunded by the Outstanding Bonds) then such excess shall be transferred to a segregated account to pay the costs of the Power Plant Project or the System Improvements Project, unless it is determined by nationally recognized bond counsel that such transfer is not required to maintain the tax-exempt status of each series of the Outstanding Bonds.

The Supplemental Resolution authorizing Additional Bonds may either (i) provide that the Additional Bonds are equally and ratably secured by the Bond Reserve Account funded according to the Reserve Requirement, if any, or (ii) provide for the creation of a separate bond reserve account securing that series of Additional Bonds and a different reserve requirement, or state that no bond reserve account is required.

Section 4. Severability and Paragraph Headings. If any section, paragraph, clause or provision of this resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this resolution. The paragraph headings in this resolution are furnished for convenience of reference only and shall not be considered to be part of this resolution.

Section 5. Conflicting Resolutions; Effective Date. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded. This resolution shall become effective immediately.

We hereby certify that the foregoing is a true and complete copy of a resolution duly adopted by the Board of Commissioners of the Lansing Board of Water and Light at a Regular meeting held on Tuesday, March 26, 2019, at 5:30 p.m., prevailing Eastern Time, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act 267.

We further certify that the following Commissioners were present at said meeting David Price, Beth Graham, David Lenz, Anthony McCloud, Anthony Mullen, Ken Ross, Tracy Thomas, and Sandra Zerkle and that no Commissioners were absent.

We further certify that Commissioner Ross moved adoption of said resolution, and that said motion was supported by Commissioner Thomas.

We further certify that the following Commissioners voted for adoption of said resolution David Price, Beth Graham, David Lenz, Anthony McCloud, Anthony Mullen, Ken Ross, Tracy Thomas, and Sandra Zerkle and that no Commissioners voted against adoption of said resolution.

We further certify that said resolution has been recorded in the Resolution Book and that such recording has been authenticated by the signature of the Chairperson and Corporate Secretary.



Chairperson

Chairperson – David Price



Corporate Secretary

Corporate Secretary – M. Denise Griffin