

92-1

BOND ORDINANCE

CITY OF RUSSELLVILLE, KENTUCKY

AUTHORIZING

CITY OF RUSSELLVILLE
WATER AND SEWER REVENUE BONDS OF 1991

IN THE AMOUNT OF

\$148,000

I N D E X

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
	ARTICLE 1. DEFINITIONS; PURPOSE; AUTHORIZATION OF BONDS; SECURITY	
101	Definitions	3
102	Purpose; Construction Project	8
103	Construction Award Approved; Work Authorized	8
104	Declaration of Period of Usefulness	8
105	Authorization of Bonds	9
106	Recognition of Prior Bonds	9
107	Current Bonds Shall be Payable Out of Gross Revenues Subject to Priority of Prior Bonds	9
108	Lien on Contracts	10
	ARTICLE 2. THE BONDS; PRINCIPAL INSTALLMENTS; BOND FORM; EXECUTION; PREPAYMENT	
201	Principal Installments	11
202	Issuance of Current Bonds; Bond Form	11
203	Place of Payment and Manner of Execution	11
204	Provisions as to Prepayment	11
	ARTICLE 3. CONSTRUCTION ACCOUNT; INTERIM FINANCING; APPLICATION OF PROCEEDS; ARBITRAGE LIMITATIONS	
301	The Construction Account; Fidelity Bond of Treasurer; Covenants Applicable if FmHA Purchases the Bonds; Application of Proceeds of Bonds; Other Transfers and Deposits	12
	A. Covenants Applicable if FmHA Purchases Bonds	12
	B. Application of Proceeds of Current Bonds	13

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
	(1) Payment of Interim Financing, Costs of Construction Project, and Costs of Issuance of Bonds	13
	(2) Construction Account; Grant Proceeds and Connection Charges	13
	(3) Withdrawal of Funds From Construction Account	13
	(4) Transfer of Capitalized Interest to Current Sinking Fund	14
	(5) Investment of Funds in Construction Account	15
	(6) Statement of Contractors, Engineers, and Attorneys as to Payment	15
	(7) Disposition of Balance in Construction Account After Completion of Construction Project	15
302	Interim Financing Authorization	16
	A. Interim Financing	16
	B. Multiple Advances by FmHA	17
303	Arbitrage Limitations on Investment of Proceeds	18
	ARTICLE 4. CURRENT BONDS SUBORDINATE TO PRIOR BONDS; FLOW OF FUNDS	
401	Current Bonds are Subordinate to the Prior Bonds	22
402	Provisions of Prior Bond Ordinance Incorporated Herein; Creation of New Funds	22
	A. Revenue Fund	22
	B. Prior Sinking Fund	22
	C. Prior Reserve Fund	23
	D. Current Sinking Fund	23
	E. Monthly Principal and Interest Payments if Requested by the FmHA or Other Owner of All of the Current Bonds	24
	F. Operation and Maintenance Fund	24
	G. Depreciation Fund	25
	H. Miscellaneous Provisions	25

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
ARTICLE 5. COVENANTS OF CITY		
501	Rates and Charges	27
502	Books and Accounts; Audit	27
503	System to Continue to be Operated on Fiscal Year Basis; Annual Budget	27
504	General Covenants	29
505	Other Covenants Applicable So Long as FmHA Owns Any Bonds	30
506	Insurance on Motors, Tanks and Structures	30
ARTICLE 6. INFERIOR BONDS AND PARITY BONDS		
601	Inferior Bonds	31
602	Parity Bonds to Complete the Construction Project	31
603	Parity Bonds to Finance Future Improvements	32
604	Covenants to be Complied with at Time of Issuance of Parity Bonds	33
605	Prepayment Provisions Applicable to Parity Bonds	34
606	Consent of the FmHA Regarding Future Bonds	34
607	Priority of Lien; Permissible Disposition of Surplus or Obsolete Facilities	34
ARTICLE 7. DEFAULT AND CONSEQUENCES		
701	Events of Default	36
702	Consequences of Event of Default	36
ARTICLE 8. CONTRACTUAL PROVISIONS; GRANT APPROVAL; MISCELLANEOUS PROVISIONS		
801	Ordinance Contractual with Bondowners	38
802	All Current Bonds are Equal	38
803	City Obligated to Refund Current Bonds Owned by Government Whenever Feasible; Defeasement Prohibited	38
804	Approval and Acceptance of FmHA Grant Agreement	39
805	Use of City Streets	39
806	Authorization, Ratification, and Confirmation of Approval and Execution of Various Documents	39
807	Authorization of Condemnation to Acquire Easements and/or Sites	40

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
	ARTICLE 9. SALE OF CURRENT BONDS	
901	Sale of Current Bonds	41
902	Possible Adjustment in Date of Current Bonds, Maturities, Prepayment Provisions and Other Dates if Delivery is Delayed	41
	ARTICLE 10. CONCLUDING PROVISIONS	
1001	Covenant of City to Take All Necessary Action to Assure Compliance with Internal Revenue Code	42
1002	Severability Clause	43
1003	All Provisions in Conflict Repealed	43
1004	Effective Date	43
	CERTIFICATION	44
	EXHIBIT A - Schedule of Principal Maturities	
	EXHIBIT B - Form of Fully Registered Bond	
	EXHIBIT C - Requisition Certificate	

BOND ORDINANCE

ORDINANCE OF THE CITY OF RUSSELLVILLE, KENTUCKY, AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SALE OF \$148,000 PRINCIPAL AMOUNT OF CITY OF RUSSELLVILLE WATER AND SEWER REVENUE BONDS OF 1991 FOR THE PURPOSE OF FINANCING THE COST (NOT OTHERWISE PROVIDED) OF THE CONSTRUCTION OF EXTENSIONS, ADDITIONS AND IMPROVEMENTS TO THE EXISTING COMBINED AND CONSOLIDATED WATERWORKS AND SEWER SYSTEM OF SAID CITY; PROVIDING FOR SAID BONDS TO BE SUBORDINATE TO CERTAIN OUTSTANDING REVENUE BONDS, PREVIOUSLY ISSUED BY SAID CITY; SETTING FORTH TERMS AND CONDITIONS UPON WHICH SAID BONDS MAY BE ISSUED AND OUTSTANDING; PROVIDING FOR THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SAID COMBINED AND CONSOLIDATED WATERWORKS AND SEWER SYSTEM; AND PROVIDING FOR AN ADVERTISED, PUBLIC, COMPETITIVE SALE OF SAID BONDS.

WHEREAS, the combined and consolidated waterworks and sewer system (the "System") of the City of Russellville (the "City") is owned and operated by said City pursuant to Sections 58.010 through 58.140, inclusive, and Section 82.082 of the Kentucky Revised Statutes (the "Act"), and

WHEREAS, the City presently has outstanding certain Prior Bonds (as hereinafter defined), which Prior Bonds are payable from and secured by a pledge of the revenues derived from the operation of the System, and

WHEREAS, all of the Prior Bonds presently outstanding are current as to payment of both principal and interest, and for the security of which a certain Sinking Fund and certain reserves are being maintained in the manner and by the means prescribed in the Prior Bond Ordinance (as hereinafter defined) of the City, authorizing the Prior Bonds, and

WHEREAS, it is the desire and intent of the City at this time to enact this Ordinance pursuant to the Act, to authorize and provide for the issuance of revenue bonds in the principal amount of \$148,000 (the "Current Bonds"), for the purpose of financing the cost (not otherwise provided) of the construction of extensions, additions and improvements to the System of the City, in accordance with plans and specifications prepared by Lyne & Associates, now on file in the office of the City Clerk of the City, and to prescribe the covenants of the City, the rights of Bondowners and the details of the issuance and sale of the proposed Current Bonds, and

WHEREAS, the City desires and intends that the Current Bonds be issued as third lien bonds, subject to the vested rights and priorities in favor of the owners of the outstanding Prior Bonds, and

WHEREAS, the proceeds of the Current Bonds will be supplemented by Grant Proceeds (as hereinafter defined) in the amount of approximately \$541,000, and by water and/or sewer connection charges in the amount of at least \$53,600, to provide the total cost of such construction, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RUSSELLVILLE, KENTUCKY, AS FOLLOWS:

ARTICLE 1. DEFINITIONS; PURPOSE; AUTHORIZATION
OF BONDS; SECURITY.

Section 101. Definitions. As used in this Ordinance, unless the context requires otherwise:

"ACT" refers to Sections 58.010 through 58.140, inclusive, and Section 82.082 of the Kentucky Revised Statutes.

"BEGINNING MONTH" means the month following the month in which the Current Bonds authorized herein are issued, sold and delivered to the Purchaser thereof.

"BOND COUNSEL" refers to an attorney or firm of attorneys recognized nationally as experts in the field of municipal bond law and shall be deemed to refer to Rubin Hays & Foley, Louisville, Kentucky, or their successors.

"BONDOWNER" or "OWNER" mean and contemplate the registered Owners of the Current Bonds at the time issued and outstanding hereunder.

"BONDS" refers to the outstanding Prior Bonds and the Current Bonds.

"BONDS OF 1967" refers to the original authorized issue of \$590,000 of bonds designated as "City of Russellville Water and Sewer Revenue Bonds", dated April 1, 1967, of which there are presently outstanding \$550,000 of Bonds, scheduled to mature on April 1 in each of the years, 1992 through 2001, inclusive.

"BONDS OF 1972" refers to the original authorized issue of \$240,000 of bonds designated as "City of Russellville Water and Sewer Revenue Bonds, Series of 1972", dated January 23, 1974, of which there are presently outstanding \$122,298 of Bonds, scheduled to mature on April 1 in each of the years, 1992 through 2013, inclusive.

"BONDS OF 1984" refers to the original authorized issue of \$475,000 of bonds designated as "City of Russellville Water and Sewer Revenue Bonds, Series of 1984", dated September 1, 1984, of which there are presently outstanding \$330,000 of Bonds, scheduled to mature on April 1 in each of the years, 1992 through 1999, inclusive.

"BOND ORDINANCE OF 1967" or "1967 BOND ORDINANCE" refers to the Ordinance authorizing the Bonds of 1967, duly enacted by the City Council of the City on February 21, 1967.

"BOND ORDINANCE OF 1972" or "1972 BOND ORDINANCE" refers to the Ordinance authorizing the Bonds of 1972, duly enacted by the City Council of the City on June 20, 1972.

"BOND ORDINANCE OF 1984" or "1984 BOND ORDINANCE" refers to the Ordinance authorizing the Bonds of 1984, duly enacted by the City Council of the City on September 4, 1984.

"CITY" refers to the City of Russellville, Kentucky.

"CITY CLERK" refers to the appointed City Clerk of the City.

"CODE" refers to the Internal Revenue Code of 1986, as amended, and the Treasury Regulations relating thereto.

"CONSTRUCTION ACCOUNT" refers to the City of Russellville Water and Sewer Revenue Bond Construction Account, created in Section 301(B) of this Current Bond Ordinance.

"CONSTRUCTION PROJECT" refers specifically to the construction of the currently proposed extensions, additions and improvements to the System of the City, which Construction Project is being financed by the Current Bonds and by other funds.

"CONTRACTORS" means the general contractors who have been employed by the City to construct the Construction Project.

"CURRENT BOND ORDINANCE" or "ORDINANCE" refers to this Ordinance authorizing the Current Bonds.

"CURRENT BONDS" refers to the \$148,000 of City of Russellville Water and Sewer Revenue Bonds of 1991 authorized by this Ordinance, to be dated as of the date of issuance thereof.

"CURRENT RESERVE FUND" refers to the debt service reserve portion of the Current Sinking Fund created in Section 402(D) of this Ordinance.

"CURRENT SINKING FUND" refers to the City of Russellville Water and Sewer Revenue Bond Sinking Fund, created in Section 402(D) of this Ordinance.

"DEPOSITORY BANK" means the bank, which shall be a member of the FDIC, at which the principal of and interest on the Prior Bonds are payable and which has served and shall continue to serve as the depository of all of the Funds created in the Prior Bond Ordinance and this Current Bond Ordinance, which bank is The Citizens National Bank, Russellville, Kentucky, or its successor.

"DEPRECIATION RESERVE FUND" refers to the Depreciation Fund referred to in Section 12(E) of the 1984 Bond Ordinance.

"ENGINEERS" refers to the Engineers or any one of them, who prepared the plans and specifications for the construction of the Construction Project and who will supervise the construction thereof and/or will furnish full time resident inspection of the construction of the Construction Project, and shall be deemed to refer to Lyne & Associates, or a member of said firm, or their successors.

"EVENT OF DEFAULT" refers to one or more of the Events of Default set forth in Section 701 of this Ordinance.

"FDIC" refers to the Federal Deposit Insurance Corporation, or its successors.

"FISCAL YEAR" refers to the annual accounting period of the City, beginning on July 1 and ending on June 30 of each year.

"FmHA" means the Farmers Home Administration of the Department of Agriculture of the United States of America.

"FmHA GRANT" refers to the FmHA grant described in Section 804 of this Ordinance.

"FUNDS" refers to the Revenue Fund, the Prior Sinking Fund, the Current Sinking Fund, the Depreciation Fund, the Depreciation Reserve Fund, the Prior Reserve Fund, the Current Reserve Fund and the Operation and Maintenance Fund.

"GOVERNING BODY" means the City Council of the City, or such other body as shall be the governing body of said City under the laws of Kentucky at any given time.

"GOVERNMENT" means the United States of America, or any agency thereof, including the FmHA.

"GRANT PROCEEDS" refers to the proceeds of the FmHA Grant.

"INDEPENDENT CONSULTING ENGINEER" refers to a consulting engineer or a firm of consulting engineers of recognized excellent reputation in the field of combined and consolidated waterworks and sewer system engineering, and such definition includes the Engineers named above.

"INTERIM LENDER" means any financial institution or governmental agency approved by the City.

"LOCAL COUNSEL" refers to J. Gran Clark, Jr., Esq., Russellville, Kentucky, or any other attorney or firm of attorneys designated by the City.

"MAYOR" refers to the Mayor of the City of Russellville.

"MULTIPLE ADVANCES" refers to the advance of loan funds from the FmHA as described in Section 302 of this Ordinance.

"NOTE" refers to a single note or any number of notes, in such form as may be prescribed by the Interim Lender, including any revenue bond anticipation notes issued pursuant to Section 58.150 of the Kentucky Revised Statutes, including any renewal or extensions of the Note, issued by the City evidencing the interim financing for the Construction Project as prescribed in Section 302 of this Ordinance.

"OPERATION AND MAINTENANCE FUND" refers to the Operation and Maintenance Fund described in Section 402(F) of this Ordinance.

"OUTSTANDING BONDS" refers to the outstanding Prior Bonds and Current Bonds, and any additional outstanding Parity Bonds, and does not refer to, nor include, any Bonds for the

payment of the principal and interest of which sufficient funds will have been deposited and earmarked for payment of Bonds; provided all Outstanding Bonds of any series held by the FmHA shall be deemed to constitute Outstanding Bonds until paid regardless of the deposit of funds to pay for same.

"PARITY BONDS" means bonds which may be issued in the future, in addition to the Prior Bonds and the Current Bonds, which Parity Bonds issued in the future will, pursuant to the provisions of the Prior Bond Ordinance and of this Current Ordinance, rank on a basis of parity with said outstanding Prior Bonds and Current Bonds, as to priority, security and source of payment, and does not refer to bonds which might be issued so as to rank inferior to the security and source of payment of the outstanding Prior Bonds and Current Bonds.

"PRIOR BONDS" refers collectively to the Bonds of 1967, the Bonds of 1972 and the Bonds of 1984.

"PRIOR BOND ORDINANCE" refers collectively to the 1967 Bond Ordinance, the 1972 Bond Ordinance and the 1984 Bond Ordinance.

"PRIOR RESERVE FUND" refers to the Second Lien Revenue Fund created in Section 12(B) of the 1967 Bond Ordinance.

"PRIOR SINKING FUND" refers to the Water and Sewer Revenue Bond, Series 1972 Sinking Fund, created in the 1967 Bond Ordinance.

"PURCHASER" means the agency, person, firm or firms, or their successors, to whom the Current Bonds herein authorized are awarded at the public sale of the Current Bonds, and such definition shall refer to the FmHA if it is the Purchaser of the Current Bonds at said public sale.

"REQUIRED SIGNATURES" refers to the signatures necessary to be obtained with reference to the approval of the expenditures to be made from the Construction Account, which required signatures shall consist of the signatures of (1) the Mayor, (2) the Engineers and (3) the Purchaser; provided, however, any expenditures for issuance and administrative costs and the costs of any equipment which is not permanently affixed to the real estate shall not require the signature or the approval of the Engineers.

"REVENUE FUND" refers to the Water and Sewer Revenue Fund referred to in Section 12 of the 1984 Bond Ordinance.

"SYSTEM" refers to the existing combined and consolidated waterworks and sewer system of the City, together with all extensions, additions and improvements to said System.

"TREASURER" refers to the appointed Treasurer of the City.

"U.S. OBLIGATIONS" means bonds or notes which are the direct obligations of the United States of America, or obligations the principal of and interest on which are guaranteed by the United States of America.

All words and terms importing the singular number shall, where the context requires, import the plural number and vice versa. Unless otherwise indicated, references to Articles or Sections refers to those in this Ordinance.

Section 102. Purpose; Construction Project. The Current Bonds shall be issued for the purpose of financing the cost (not otherwise provided) of the Construction Project, as set out in the plans and specifications prepared by the Engineers. The City Council hereby declares the System of the City, including the extensions, additions and improvements to be constructed, to constitute a revenue producing public project, and said System shall continue to be owned, controlled, operated and maintained by the City as a revenue producing public project pursuant to the Act, so long as any of the Prior Bonds, the Current Bonds or any additional Parity Bonds remain outstanding.

Section 103. Construction Award Approved; Work Authorized. The City Council hereby authorizes, approves, ratifies and confirms its previous action in advertising for and taking steps toward awarding the contracts for the construction of the Construction Project to the lowest and best bidders, and further approves the action of the City officials in entering into formal contracts with said bidders, subject to the necessary approvals being obtained. Authority is hereby given for undertaking the construction of the Construction Project according to the plans and specifications heretofore prepared by the Engineers for the City, after all necessary approvals have been obtained.

Section 104. Declaration of Period of Usefulness. The City Council hereby declares that the period of usefulness of the System is more than forty (40) years from the date of completion of the Construction Project.

Section 105. Authorization of Bonds. The City has heretofore determined that the total cost of the Construction Project, including preliminary expenses, land and rights-of-way, engineering expense, capitalized interest during construction, legal and administrative costs, publication costs, initial deposits required and all incidental expenses, will not exceed \$742,600. Therefore, it is hereby determined to be necessary in order for the City to finance the cost (not otherwise provided) of the Construction Project that the City issue a total of \$148,000 of Current Bonds, based on the following calculation:

Total cost of Construction Project	\$742,600
Less:	
FmHA Grant	\$541,000
Connection Charges	<u>53,600</u>
Total Non-Bond Funds:	<u>(594,600)</u>
Balance to be financed by Current Bonds	\$148,000

Accordingly, for the purpose of financing the cost (not otherwise provided) of the Construction Project, under the provisions of the Act, there is hereby authorized to be issued and sold \$148,000 principal amount of City of Russellville Water and Sewer Revenue Bonds of 1991.

The Current Bonds shall be dated as of the date of delivery to the Purchaser thereof; shall bear interest from such date at such interest rate as may be fixed by supplemental resolution as a result of the advertised sale and competitive bidding for such Current Bonds, as hereinafter provided; and shall be issued and delivered as prescribed in Section 202 hereof.

Interest on the Current Bonds shall be payable semi-annually on January 1 and July 1 of each year, provided that the first interest payment period will cover interest only from the date of delivery of the Current Bonds to the ensuing January 1 or July 1, as the case may be. Principal of the Current Bonds shall be payable on July 1 of each of the respective years until maturity, as set out in Section 201 hereof.

Section 106. Recognition of Prior Bonds. The City hereby expressly recognizes and acknowledges that the City has previously pledged, for the benefit and protection of the owners of the Prior Bonds, the gross revenues of the System, all as set forth in the Prior Bonds and in the Prior Bond Ordinance.

Section 107. Current Bonds Shall be Payable Out of Gross Revenues, Subject to Priority of Prior Bonds. The Current Bonds and any additional Parity Bonds that may be issued under

the conditions and restrictions hereinafter set forth, shall be payable solely out of the gross revenues of the System, after providing only for the principal and interest requirements of the Prior Bonds, and shall be a valid claim of the Owners thereof against the Current Sinking Fund created for the benefit of such owners, subject to the vested rights and priority of the Prior Bonds.

Section 108. Lien on Contracts. In addition to the revenue pledge securing the Bonds, a third lien is hereby created and granted in favor of the Current Bonds on all contracts, including specifically the Water Purchase Contract, and on all other rights of the City pertaining to the System, enforceable by assignment to any receiver or other operator proceeding by authority of any court.

**ARTICLE 2. THE BONDS; PRINCIPAL INSTALLMENTS;
BOND FORM; EXECUTION; PREPAYMENT.**

Section 201. Principal Installments. Principal installments due on the Current Bonds shall be as set forth in the schedule of maturities set out in Exhibit A attached to this Ordinance and incorporated herein by reference.

Section 202. Issuance of Current Bonds; Bond Form. The Purchaser of the Current Bonds at the public sale thereof shall take delivery of the Current Bonds in the form of one or more fully registered bonds, as set forth in Exhibit B attached hereto and incorporated herein by reference, amounting in the aggregate to the principal amount of the Current Bonds authorized herein, maturing as to principal in installments as set out in Exhibit A. The Current Bonds shall be numbered R-1 and consecutively upward thereafter. Such Current Bonds shall, upon appropriate execution on behalf of the City as prescribed herein, constitute the entire bond issue herein authorized, shall be negotiable (subject to registration requirements as to transferability), and payable as to principal and interest to the registered Owner.

Section 203. Place of Payment and Manner of Execution. Both principal of and interest on the Current Bonds shall be payable at the place and in the manner set out in the form of such Current Bond. The Current Bonds shall be executed on behalf of the City by being signed manually by the Mayor of the City, with the Corporate Seal of the City affixed thereto and attested by the manual signature of the City Clerk of said City.

If either of the officers whose signatures appear on the Current Bonds ceases to be such officer before delivery of said Current Bonds, such signatures shall nevertheless be valid for all purposes the same as if such officers had remained in office until delivery.

Section 204. Provisions as to Prepayment. Except when all of the Current Bonds are held by the Government, installments of principal falling due prior to July 1, 2002, shall not be subject to prepayment. Installments of principal falling due on and after July 1, 2002, shall be subject to prepayment by the City on any interest payment date falling on and after July 1, 2001, at par plus accrued interest, without any prepayment penalty.

So long as all of the Current Bonds are owned by the Government, all or any of the Current Bonds, or installments in a multiple of \$1,000, may be prepaid at any time in inverse chronological order of the installments due, at par plus accrued interest without any prepayment penalty.

ARTICLE 3. CONSTRUCTION ACCOUNT; INTERIM
FINANCING; APPLICATION OF PROCEEDS;
ARBITRAGE LIMITATIONS.

Section 301. The Construction Account; Fidelity Bond of Treasurer; Covenants Applicable if FmHA Purchases the Bonds; Application of Proceeds of Bonds; Other Transfers and Deposits. The Treasurer of the City, or such other City official as shall be designated by the City Council, shall be the custodian of all funds belonging to and associated with the System, and such funds shall be deposited in the Depository Bank. All moneys in excess of the amount insured by the FDIC in the Construction Account shall be secured by the Depository Bank in accordance with U. S. Treasury Department Circular No. 176. The officials of the City entrusted with the receipt and disbursement of funds of the System and the custody of valuable property shall be covered by a fidelity bond in the amount of not less than \$150,000 (the "Fidelity Bond"), or such larger amount as the FmHA may require, which Fidelity Bond shall be effective and secured by a surety company approved by the FmHA so long as it is owner of any of the Bonds; the FmHA and the City shall be named co-obligees in such Fidelity Bond; and the amount thereof shall not be reduced without the written consent of the FmHA; provided that whenever sums in the various accounts referred to herein (other than the Construction Account) shall exceed \$150,000, the Fidelity Bond shall be increased accordingly as requested by and with the approval of the FmHA.

In like manner, the officials of the City entrusted with the receipt and disbursement of moneys in the Construction Account shall be covered by a separate fidelity bond (the "Construction Account Fidelity Bond") with the FmHA and the City named as co-obligees in the maximum amount anticipated to be on deposit in the Construction Account at any one time as determined by the Mayor, with the approval of the FmHA. The City will segregate and earmark its various funds, consistent with this Ordinance, in such manner as to enable the City to obtain the lowest possible surety premium rate on such Fidelity Bond and Construction Account Fidelity Bond.

A. Covenants Applicable if FmHA Purchases Bonds. It is acknowledged that all covenants herein with reference to the necessity for approval of the FmHA, the necessity of observing FmHA procedure and the necessity of using FmHA forms (the "FmHA Forms"), shall apply only if the FmHA is the Purchaser of the Current Bonds and only so long as the FmHA holds the Bonds thereafter. In the event that the FmHA shall not be the Purchaser of the Current Bonds, or, after purchasing same, shall sell or transfer the Current Bonds to an Owner who shall not be the Government, all covenants herein with reference to the necessity for approval of the FmHA, the necessity of observing FmHA procedure, and the necessity of using FmHA Forms, shall not be applicable.

B. Application of Proceeds of Current Bonds. The proceeds of the Current Bonds shall be applied as follows:

(1) Payment of Interim Financing, Costs of Construction Project, and Costs of Issuance of Bonds. Simultaneously with the delivery of the Bonds (to the extent of part or all of the proceeds of the Bonds), there shall immediately be paid to the Interim Lender (or the FmHA if Multiple Advances are made) an amount sufficient to pay principal of and interest on any temporary loans borrowed by the City in anticipation of the sale and delivery of the Current Bonds and/or of the receipt of Grant Proceeds. Also, at the time of delivery of the Current Bonds, there shall be paid all amounts then due and payable in connection with the costs of the Construction Project and in connection with the issuance of the Current Bonds.

(2) Construction Account; Grant Proceeds and Connection Charges. If and to the extent that the proceeds of the Current Bonds shall be in excess of the amount necessary to pay the interest, principal and costs referred to in subparagraph B(1) of this Section, such excess amount shall immediately be deposited in the "City of Russellville Water and Sewer Revenue Bond Construction Account" hereby created, which shall be established at the Depository Bank. There shall also be deposited in said Construction Account the Grant Proceeds, as and when received, or said Grant Proceeds may be applied, to the extent necessary, to liquidate or reduce any interim financing owed by the City at the time of receipt of Grant Proceeds. Simultaneously with or prior to the delivery of the Bonds, there shall also be deposited in the Construction Account the proceeds of the water and/or sewer connection charges in the minimum amount of \$53,600 (less any amounts theretofore used for authorized purposes), to supplement the proceeds of the Bonds and Grant Proceeds in order to assure completion of the Construction Project.

(3) Withdrawal of Funds From Construction Account. Prior to the expenditure by the City of any moneys from the Construction Account, the City must obtain written approval from the FmHA as to such expenditures, if the FmHA is the Owner of any Outstanding Bonds. The proceeds of said Construction Account shall be withdrawn only on checks signed by the Treasurer (or by such other official of the City as may be authorized by the City Council), provided such Treasurer or such other official shall be covered by the Construction Account Fidelity Bond required by Section 301 of this Ordinance, in payment for services and/or materials supplied in connection with the Construction Project, as evidenced by (1) a Requisition

Certificate and (2) invoices and/or partial payment estimates bearing the written approval of the Engineers and the Mayor (or by such other official of the City as may be authorized by the City Council), and which invoices and/or partial payment estimates must have been reviewed and approved for payment by the designated FmHA official.

Written approval or certification of the Engineers shall not be required for matters not under the jurisdiction of the Engineers, such as legal fees, land acquisition and related items. The executed Requisition Certificates shall be retained by the Treasurer and need not be furnished to the Depository Bank, which shall be authorized to honor checks signed by the Treasurer.

During construction, the City shall disburse Construction Account funds in a manner consistent with FmHA Instruction 1942.17(p)(5) of Appendix "A" to FmHA Instruction 1942-A. Form FmHA 424-18, "Partial Payment Estimate" or similar form approved by FmHA, shall be used for the purpose of documenting periodic construction estimates, and shall be submitted to FmHA for review and acceptance. Form SF-271, "Outlay Report and Request for Reimbursement for Construction Programs," shall be prepared and submitted to FmHA to account for funds expended in the last 30 day period.

After the Bonds are delivered, the City shall prepare and submit Form SF-272, "Report of Federal Cash Transactions", to report the status of federal cash received during each prior monthly period. Form FmHA 440-11, "Estimate of Funds Needed for 30-Day Period Commencing _____", will be prepared by the City and submitted to FmHA in order that a periodic Advance of Federal Cash may be requested. Forms FmHA 440-11 and SF-272 will be submitted to FmHA simultaneously.

Periodic audits of the City's Construction Account records shall be made by FmHA as determined by it to be necessary.

(4) Transfer of Capitalized Interest to Current Sinking Fund. There shall be transferred from the Construction Account from time to time, as needed, an amount sufficient to provide for capitalized interest (initially estimated at \$7,000) during the construction of the Construction Project, as approved by the Engineers and by the FmHA. If and to the extent not theretofore expended in paying interest on interim financing and if and to the extent then needed to pay interest during the remaining period of construction of

the Construction Project, such amount so transferred from the Construction Account shall be deposited in the Current Sinking Fund.

(5) Investment of Funds in Construction Account. Pending disbursement of amounts on deposit in the Construction Account, all such funds, or such portion of said amounts on deposit in said Construction Account as is designated by the City Council, shall be invested for the benefit of such Construction Account in Certificates of Deposit, savings accounts or U.S. Obligations which may be converted readily into cash, having a maturity date prior to the date when the sums invested will be needed for costs of the Construction Project (as determined by the Engineers, the Mayor and the representative of the FmHA), provided that to the extent that any amounts on deposit in said Depository Bank shall cause the total deposits of the City in said Depository Bank to exceed the amount insured by the FDIC, the same shall be continuously secured by a valid pledge of U.S. Obligations, having an equivalent market value, in conformity with Section 66.480 of the Kentucky Revised Statutes. Investments in Certificates of Deposit may be made only if a separate FmHA Form 402-4 Agreement is executed, if the FmHA has purchased any of the Bonds, and investments in Certificates of Deposit or savings accounts may be made only in such Certificates or accounts of an FDIC bank. Any such investments will be a part of the Construction Account, and income from such investments will be credited to the Construction Account. All such investments shall be subject to the limitations set out in Section 303 hereof.

(6) Statements of Contractors, Engineers, and Attorneys as to Payment. Prior to the delivery of the Current Bonds, if the FmHA is the Purchaser of the Current Bonds, the City will be required to provide the FmHA with statements from the Contractors, Engineers, and attorneys for the City that they have been paid to date in accordance with their contract or other agreements and, in the case of any Contractor, that he has paid his suppliers and subcontractors. Any exceptions must be authorized under FmHA Instructions 1942-A, Subsection 1942.17(n)(2).

(7) Disposition of Balance in Construction Account After Completion of Construction Project. When the Construction Project has been completed and all construction costs have been paid in full, as certified by the Engineers for the City and/or by the FmHA, any balance then remaining in the Construction Account may, with the consent of the State Director of the FmHA, be applied to the cost of constructing additional

If the FmHA agrees to make Multiple Advances to the City pending the delivery of the Current Bonds, the Mayor is hereby authorized to execute in the name and on behalf of the City any number of Notes. Each such Note, evidencing an advance of funds by the FmHA to the City, shall be in the form prescribed by the FmHA.

Each request for an advance from the FmHA shall be accompanied by a Requisition Certificate. The City will also furnish to the FmHA, prior to the receipt of each Multiple Advance, whatever additional documentation shall be requested by the FmHA, including an updated supplemental title opinion of Local Counsel and an updated supplemental preliminary legal opinion of Bond Counsel.

The proceeds of any Multiple Advances shall be either (i) disbursed directly to the parties entitled thereto for services and/or materials supplied in connection with the Construction Project or (ii) deposited into the Construction Account and disbursed in accordance with the provisions of Section 301B(3) hereof, in which event amounts on deposit in such Construction Account shall, until expended, to the extent that same shall exceed the amount insured by the FDIC, be fully secured by a pledge of U.S. Obligations.

The proceeds of the Current Bonds are hereby pledged to the repayment of such Multiple Advances, and such pledge shall constitute a first and prior pledge against such proceeds. The City further pledges the gross revenues of the System to the repayment of said Multiple Advances, subject to the priority of the pledges securing the Prior Bonds.

Section 303. Arbitrage Limitations on Investment of Proceeds. The City covenants and certifies, in compliance with the Code, as follows:

(a) The City certifies, on the basis of known facts and reasonable expectations on the date of enactment of this Ordinance, that it is not expected that the proceeds of the Current Bonds will be used in a manner which would cause the Current Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code. The City covenants to the Purchaser and/or Owners of the Current Bonds that (1) the City will make no use of the proceeds of said Current Bonds which, if such use had been reasonably expected on the date of issue of such Current Bonds, would have caused such Current Bonds to be "arbitrage bonds" and (2) the City will comply with all of the requirements of the Code to whatever extent is necessary to assure that the Current Bonds shall not be treated as or constitute "arbitrage bonds" and that the interest on the Current Bonds shall be excludable from gross income for Federal income tax purposes.

(b) The City certifies, based on information furnished by the Engineers, and on known facts and reasonable expectations at this time, as follows:

- (1) that the City has entered into a contract with the Engineers for engineering services in connection with the Construction Project financed by the Current Bonds and the fees to be paid to such Engineers will exceed 2-1/2% of the total cost of the Construction Project;
- (2) that work on the Construction Project has commenced or will commence within six months from the date of issuance of the Current Bonds or from the date of the first interim financing loan made under this Ordinance, whichever occurs first;
- (3) that the construction of said Construction Project will proceed thereafter to completion with due diligence on the part of the City;
- (4) that all of the proceeds of the Current Bonds, with the possible exception of five percent (5%) of the proceeds of the Bonds, will be expended on the costs of the Construction Project within less than three years from the date of issuance of the Current Bonds;
- (5) that it is anticipated that amounts on deposit in the Current Sinking Fund will be used within thirteen (13) months from the date of deposit for the payment of debt service on the Outstanding Bonds, and that, except for an amount equal to not more than the greater of (i) one-twelfth (1/12) of debt service requirements of the Outstanding Bonds for the then ensuing year or (ii) one year's earnings on the Current Sinking Fund, such Current Sinking Fund will be depleted through such application for current debt service requirements of the Outstanding Bonds;
- (6) that it is not anticipated that amounts will be accumulated in any reserve fund anticipated to be used for debt service on the Outstanding Bonds in excess of an amount reasonably required to sell the Current Bonds; provided, however, in no event shall such amount exceed the lesser of (i) the maximum annual debt service on all

Outstanding Bonds, (ii) 1.25 times the average annual debt service for principal and interest on all Outstanding Bonds, or (iii) more than 10% of the face amount (par) of the Current Bonds, plus 10% of the face amount of all Prior Bonds or 15% as to any Prior Bonds issued prior to August 16, 1986;

- (7) that it is not reasonably anticipated that amounts accumulated in the Depreciation Fund or the Current Reserve Fund will be used for payment of the debt service on any Outstanding Bonds, even though such Depreciation Fund and/or Current Reserve Fund will be available if necessary to prevent a default in the payment of principal and interest on the Bonds; and
- (8) that the City has not been advised of any listing or contemplated listing by the Internal Revenue Service determining that the foregoing type of certification with respect to the City's obligations may not be relied on.

(c) The City covenants that neither the proceeds of the Current Bonds, nor Non-Exempt Revenues (hereinafter defined) of the City will be invested in investments which will produce a net adjusted yield in excess of the net interest cost (effective yield) of the Current Bonds, if such investment would cause the Current Bonds to be treated as "arbitrage bonds"; provided, however, that such proceeds and/or revenues may be invested to whatever extent and whenever such Code permits same to be invested without causing the Current Bonds to be treated as "arbitrage bonds".

"Non-Exempt Revenues" within the meaning of the foregoing shall be deemed to refer to revenues of the City deposited in any of the funds earmarked for or reasonably expected to be used for the payment of debt service on the Outstanding Bonds, in excess of Exempt Revenues (hereinafter defined).

"Exempt Revenues" shall consist of the following:

- (1) amounts deposited in the Current Sinking Fund for the purpose of paying debt service on any Outstanding Bonds within 13 months from the date of deposit;
- (2) amounts deposited in any reserve earmarked for or anticipated to be used for debt service on Outstanding Bonds, to the extent

that such deposits do not cause the total amount of such reserves, deposits and other excess Non-Exempt Revenues, to exceed the limitations referred to in Section 303(b)(6) above, for which adequate provision will have been made to comply with such limitations;

- (3) amounts deposited in the Depreciation Fund, Current Reserve Fund, Operation and Maintenance Fund, or any other fund (however designated) reasonably expected to be used for extensions, additions, improvements, repairs or replacements to the System, and not reasonably expected to be used to pay debt service (even if pledged to be used to pay debt service in the event of the unexpected inadequacy of other funds pledged for that purpose) of Outstanding Bonds; and
- (4) an amount of the original proceeds of the Current Bonds if such amount does not exceed the lesser of five percent (5%) of the proceeds of the Current Bonds or \$100,000.

If and to the extent that any Non-Exempt Revenues are on deposit and are available for investment, such funds shall be subject to the investment limitation referred to in Section 303(a) above.

Prior to or at the time of delivery of the Current Bonds, the Mayor and/or the Treasurer (who are jointly and severally charged with the responsibility for the issuance of the Current Bonds) are authorized to execute the appropriate certification with reference to the matters referred to above, setting out all known and contemplated facts concerning such anticipated construction, expenditures and investments, including the execution of necessary and/or desirable certifications of the type contemplated by Section 148 of the Code in order to assure that interest on the Current Bonds shall be excludable from gross income for Federal income tax purposes and that the Current Bonds will not be treated as "arbitrage bonds".

**ARTICLE 4. CURRENT BONDS SUBORDINATE TO
PRIOR BONDS; FLOW OF FUNDS.**

Section 401. Current Bonds are Subordinate to the Prior Bonds. It is hereby certified and declared that the Current Bonds shall be subordinate to the lien and pledge of the Prior Bonds on the gross revenues of the System.

Section 402. Provisions of Prior Bond Ordinance Incorporated Herein; Creation of New Funds. All proceedings preliminary to and in connection with the issuance of the outstanding Prior Bonds of the City, including provisions made for (i) the receipt, custody and application of the proceeds of said Prior Bonds; (ii) the operation of the System on a revenue-producing basis; (iii) the segregation, allocation and custody of the revenues derived from the operation of the System; (iv) the enforcement and payment of said Prior Bonds; and (v) all other covenants for the benefit of bondowners set out in the Prior Bond Ordinance, are hereby ratified and confirmed and shall continue in force and inure to the security and benefit of the Prior Bonds and (subject to the priority of the Prior Bonds) the Current Bonds, the same as if such provisions and proceedings were repeated in full herein; provided, further, that, after the issuance of the Current Bonds, the income and revenues of the System shall be collected, segregated, accounted for, and distributed as follows:

A. Revenue Fund. A separate and special fund or account of the City, distinct and apart from all other funds and accounts, was heretofore created by the Prior Bond Ordinance, which fund has been and is designated and identified as the "Water and Sewer Revenue Fund", in the custody of the Treasurer, which Revenue Fund has been deposited with and shall continue to be maintained and deposited with the Depository Bank, so long as any of the Prior Bonds, the Current Bonds or any Parity Bonds are outstanding. The City covenants and agrees that it will continue to deposit therein, promptly as received from time to time, all revenues of the System, as same may be extended and improved from time to time. The moneys in the Revenue Fund from time to time shall continue to be used, disbursed and applied by the City only for the purpose and in the manner and order of priorities specified in the Prior Bond Ordinance, as hereinafter modified by this Ordinance, all as permitted by the Act, and in accordance with previous contractual commitments.

B. Prior Sinking Fund. A separate and special fund or account of the City, entitled "Water and Sewer Revenue Bond, Series 1972 Sinking Fund, was created by the Prior Bond Ordinance, and the same shall continue to be maintained as provided in the Prior Bond Ordinance; and the City covenants and agrees that it will continue to deposit in the Prior Sinking Fund such funds from the Revenue Fund as are required by the terms of the Prior Bond Ordinance to be so deposited; and such sums shall

be held and applied by the City in the manner required by the Prior Bond Ordinance and by this Current Bond Ordinance.

C. Prior Reserve Fund. A separate and special fund or account of the City, entitled "Second Lien Reserve Fund" was created by the 1972 Bond Ordinance, and the same shall continue to be maintained as provided in the 1972 Bond Ordinance; and the City covenants and agrees that it will continue to deposit in the Prior Reserve such funds from the Revenue Fund as are required by the terms of the 1972 Bond Ordinance to be so deposited; and such sums shall be held and applied by the City in the manner required by the 1972 Bond Ordinance and by this Current Bond Ordinance.

D. Current Sinking Fund. At or after the time that the Current Bonds have been delivered, there shall be transferred from the Construction Account an amount sufficient (currently estimated at \$7,000) to provide for capitalized interest during the construction of the Construction Project, if and to the extent not theretofore expended in paying interest on interim financing and if and to the extent then needed to pay interest during the remaining period of construction of the Construction Project. Such amount so transferred from the Construction Account shall be deposited in the "City of Russellville Water and Sewer Revenue Bond Sinking Fund" hereby created.

After the monthly transfers required in the preceding Subsections have been paid from the Revenue Fund, and after the expiration of the month in which interest on the Current Bonds is last payable out of the sum set aside into the Current Sinking Fund as capitalized interest, there shall next be transferred monthly from said Revenue Fund and deposited into the Current Sinking Fund on or before the 20th day of each month, for payment of interest on and principal of the Current Bonds, a sum equal to the total of the following:

- (1) An amount equal to one-sixth (or such larger amount as is necessary) of the next succeeding six-month interest installment to become due on the Current Bonds then outstanding, plus
- (2) Beginning on July 1, 1993, a sum equal to one-twelfth (or such larger amount as is necessary) of the principal of any Current Bonds maturing on the next succeeding July 1.

After all of the transfers required to be made above have been made, there shall next be transferred from the Revenue Fund to the City of Russellville Water and Sewer Revenue Bond Reserve Fund to be held as a reserve for debt service on the Current Bonds, the sum of \$75.00 each month until there is accumulated in such Current Reserve Fund the sum of \$9,000, after which no further deposits need be made into such Current Reserve Fund except to replace withdrawals.

If the City for any reason shall fail to make any monthly deposits as required, then an amount equal to the deficiency shall be set apart and deposited into the Current Sinking Fund and/or the Current Reserve Fund out of the first available revenues in the ensuing month or months, which amount shall be in addition to the monthly deposits otherwise required during such succeeding months. Whenever there shall accumulate in the Current Sinking Fund and/or in the Current Reserve Fund amounts in excess of the requirements during the next twelve months for paying the principal of and interest on outstanding Current Bonds as same fall due, and if at such time the City is in compliance with all provisions of the Prior Bond Ordinance, such excess amount may be used for redemption of such Current Bonds prior to maturity, as set forth in Section 204 hereof.

All funds in said Current Sinking Fund and in said Current Reserve Fund shall be deposited in the Depository Bank, or such portion of said amounts on deposit in the respective Current Sinking Fund and the Current Reserve Fund as is designated by the City Council shall be invested for the benefit of such respective Funds in Certificates of Deposit, savings accounts, or U.S. Obligations which may be converted readily into cash, having a maturity date prior to the date when the sums invested will be needed for meeting interest and/or principal payments, provided that to the extent that any amounts on deposit in said Depository Bank shall cause the total deposits of the City in said bank to exceed the amount insured by the FDIC, such excess amount shall be continuously secured by a valid pledge of U.S. Obligations, having an equivalent market value, in conformity with Section 66.480 of the Kentucky Revised Statutes. Investments in Certificates of Deposit may be made only if a separate FmHA Form 402-4 agreement is executed, if the FmHA has purchased any of the Bonds. Any such investments will be a part of the respective Current Sinking Fund and Current Reserve Fund from which the proceeds invested are derived, and income from such investments will be credited to such respective Funds.

E. Monthly Principal and Interest Payments if Requested by the FmHA or Other Owner of All of the Current Bonds. So long as all of the Current Bonds are owned or insured by the FmHA, the City shall, if requested by the FmHA, make the payments required by Section 402(D) in monthly installments to the FmHA or to the insured Owner of the Current Bonds; provided, further that at the option of any other Owner of all of the Current Bonds, such payments shall similarly be made in monthly installments to such Owner.

F. Operation and Maintenance Fund. A separate and special fund or account of the City was created in the Prior Bond Ordinance, which fund was designated as the " Operation and Maintenance Fund." Said Operation and Maintenance Fund shall be maintained so long as any of the Prior Bonds, the Current Bonds and any additional Parity Bonds are outstanding; and the City shall continue to transfer in each month and deposit into said

Operation and Maintenance Fund such funds as are required in the Prior Bond Ordinance for the purpose of enabling the City to continue to provide for the proper operation and maintenance of the System.

It was further provided in the Prior Bond Ordinance, and it is hereby reaffirmed, that if a surplus shall accumulate in the Operation and Maintenance Fund equal to the estimated cost of operating and maintaining the System for the remainder of the then current fiscal year, and for the ensuing three months, the excess of such surplus over such estimated cost may, by order of the City Council, be transferred to the Depreciation Fund or to the Prior Sinking Fund, and held and applied as a part of the Prior Reserve Fund.

G. Depreciation Fund. A separate and special fund or account of the City was referred to in Section 12(D) of the 1984 Bond Ordinance, which Depreciation Fund is hereby ratified, confirmed, and ordered to be continued so long as any of the Prior Bonds, the Current Bonds and any Parity Bonds are outstanding. The 1984 Bond Ordinance required and it is hereby required (subject to the modifications set out herein) that after the transfers above are made in each month, the sum of \$1,000 shall be set aside into said Depreciation Fund and expended in making any improvements, extensions, additions, betterments or constructions to the System.

Funds in the Depreciation Fund may be invested in U.S. Obligations, as shall be determined by the City Council, and all such investments, as well as the income therefrom, shall be carried to the credit of the Depreciation Fund.

In addition to the monthly transfers and the maintenance of the minimum balance in said Depreciation Fund, the Prior Bond Ordinance requires that there be deposited in the Depreciation Fund the proceeds from the sale of any equipment no longer usable or needed, fees or charges collected from potential customers to aid in the financing of the cost of further extensions, additions and improvements, and the proceeds from any property damage insurance, and that such amounts so deposited be used only for the purposes for which such Depreciation Fund is established.

It was provided in the 1984 Bond Ordinance, and is hereby again reaffirmed, that after said balance of \$60,000 shall have been accumulated in the Depreciation Fund, the monthly deposits therein may be discontinued, but the same shall be resumed whenever authorized disbursements therefrom shall reduce the balance below \$60,000 and shall be continued until such balance is restored.

H. Miscellaneous Provisions. Subject to the provisions of this Section 402, which are cumulative, and after paying or providing for the payment of debt service on any

subordinate obligations, there shall be transferred within sixty (60) days after the end of each fiscal year the balance of excess funds in the Revenue Fund on such date to the Current Sinking Fund to be used in redeeming Outstanding Bonds payable from the Current Sinking Fund in inverse maturity order of or purchasing such Outstanding Bonds at a price not to exceed the price at which such Bonds may be redeemed on the next succeeding redemption date.

All payments into the above special funds shall be made on or before the twentieth (20th) day of each month, except that when the twentieth (20th) day of any month shall be a Saturday, Sunday or a legal holiday, then such payment shall be made on the next succeeding business day.

All moneys held in any of the above special funds shall be kept apart from all other City funds and shall be deposited in the Depository Bank, and all such deposits which cause the aggregate of all deposits of the City therein to be in excess of the amount secured by FDIC, shall (unless invested as herein authorized) be secured by a surety bond or bonds or by a pledge of direct obligations of U.S. Obligations, having a market value equivalent to such deposit.

On or before the 20th days of June and/or December in each year, the Depository Bank shall transfer from the Prior Sinking Fund, the Current Sinking Fund, the Prior Reserve Fund, the Current Reserve Fund and the Depreciation Fund (if necessary) a sum equal to the interest, or a sum equal to the principal and interest, as the case may be, becoming due on the next following respective January 1 and/or July 1, and deposit the same in an account hereby created and identified as the "City of Russellville Water and Sewer Revenue Bond Payment Account", and shall notify the alternate payor, if any, that the same is held as a trust fund to be drawn upon by the paying agents to pay maturing interest installments and/or principal installments, as the case may be, upon presentation thereof on or after maturity and upon surrender of maturing Prior Bonds and Current Bonds.

The Depository Bank and the Treasurer of the City shall keep appropriate records as to payment of principal and interest installments and as to payment of principal of and interest on any Bonds. Provided, however, that so long as the only Bonds outstanding are fully registered bonds, the functions contemplated by this paragraph shall be performed by the Treasurer.

ARTICLE 5. COVENANTS OF CITY.

Section 501. Rates and Charges. The City shall charge such rates and charges for all services and facilities rendered by the System, which rates and charges shall be reasonable and just, taking into account and consideration the cost and value of the System, the cost of maintaining, repairing and operating the same and the amounts necessary for the payment of principal of and interest on Outstanding Bonds against the System. The City shall charge such rates and charges as shall be adequate to meet the requirements of Articles 4 and 5 hereof.

The City covenants that it will not reduce the rates and charges for the services rendered by the System without first filing with the City Clerk a certification of an Independent Consulting Engineer that the annual net revenues (defined as gross revenues less current expenses) of the then existing System for the fiscal year preceding the year in which such reduction is proposed, as such annual net revenues are adjusted, after taking into account the projected reduction in annual net revenues anticipated to result from any such proposed rate decrease, are equal to not less than 120% of the average annual debt service requirements for principal and interest on all of the then Outstanding Bonds payable from the revenues of the System, calculated in the manner specified in Section 603 hereof.

Section 502. Books and Accounts; Audit. If and to the extent not now fully required by the Prior Bond Ordinance, the City shall maintain proper records and accounts relating to the operation of the System and the City's financial affairs; and the Owners of any of the Prior Bonds or the Current Bonds, or their authorized representatives, shall have the right at all reasonable times to inspect the facilities of the System and all records, accounts and data relating thereto. An annual audit shall be made of the books and accounts pertinent to the System by a Certified Public Accountant licensed in Kentucky. No later than sixty days after the close of each Fiscal Year, copies of such audit reports certified by such Certified Public Accountant shall be promptly mailed to the FmHA without request, so long as the Government is the Owner of any of the Current Bonds, and to any Bondowner that may have made a written request for same.

Monthly operating reports shall be furnished to the FmHA and to any Bondowner requesting same, during the first two years of operation after completion of the Construction Project, and whenever and so long as the City is delinquent in any of the covenants set out in the Prior Bond Ordinance or this Current Bond Ordinance. Thereafter, quarterly operating reports shall be furnished at all other times to the FmHA and to any Bondowner requesting the same.

Section 503. System to Continue to be Operated on Fiscal Year Basis; Annual Budget. While any of the Prior Bonds, the Current Bonds, and any Parity Bonds are outstanding and

extensions, additions and improvements to the System (the "Additional Construction"). If such Additional Construction is to be undertaken by the Contractors previously engaged in the Construction Project, such Additional Construction may be authorized by a change order.

If there is a balance remaining in the Construction Account after such Additional Construction, such balance (subject to legal requirements as to possible refund of any allocated portion of the balance derived from Grant Proceeds) shall be transferred to the Current Sinking Fund, whereupon said Construction Account shall be closed. Such remaining balance in the Construction Account so transferred to the Current Sinking Fund shall be used by the City immediately to prepay principal installments due on the Current Bonds in the inverse order of maturities without prepayment penalty, provided further that any balance insufficient to prepay at least \$1,000 of the principal payment falling due in any year on the Current Bonds will be transferred to the Current Reserve Fund.

Section 302. Interim Financing Authorization.

A. Interim Financing. The City shall use interim financing for the Construction Project during construction of that portion of the cost of the Construction Project financed by the Current Bonds, if available at reasonable rates and terms.

The borrowing of up to the aggregate sum of \$148,000 from the Interim Lender is hereby authorized; and the Mayor is hereby authorized to execute the Note in the name and on behalf of the City. Each advance under the Note shall evidence a loan by the Interim Lender to the City for services rendered and/or materials supplied in connection with the Construction Project, as evidenced by a Requisition Certificate.

Interim financing shall be disbursed as follows:

(1) At the direction of the City, the Interim Lender shall disburse the proceeds of the Note by cashier's checks directly to the parties entitled thereto as set forth in the Requisition Certificate; or

(2) At the direction of the City, the Interim Lender shall deposit the proceeds of the Note in the Construction Account, in which event amounts of the City on deposit therein shall, until expended to the extent that same shall exceed the amount insured by the FDIC, be fully secured by a pledge of U.S. Obligations.

The aggregate of the principal amount of all Notes shall not exceed \$148,000. Each Note which is renewed or

superseded shall be simultaneously cancelled by the Interim Lender and transmitted to the Treasurer. The rate of interest applicable to each Note shall not exceed a reasonable rate, which rate is subject to the approval of the FmHA.

The total authorized interim financing of \$148,000 shall be the maximum indebtedness which the City may owe at any one time to the Interim Lender; provided, however, that the City may reduce the amount owed by the City to the Interim Lender from time to time as and when funds are available to the City, whether derived from the proceeds of the Grant Proceeds, the proceeds of the sale of the Current Bonds or otherwise, and may reborrow from the Interim Lender additional amounts in anticipation of the further receipt by the City of additional proceeds from the Current Bonds and/or Grant Proceeds.

The City hereby covenants and agrees with the Interim Lender that upon the issuance and delivery of the Current Bonds and/or the receipt of said Grant Proceeds, the City will apply the proceeds thereof, to whatever extent may be necessary, in payment of the principal amount of the Note, together with accrued interest thereon to the date of such payment; and the proceeds of the Current Bonds and Grant Proceeds are hereby pledged therefor, and such pledge shall constitute a first and prior charge against said proceeds.

Although the proceeds of the Current Bonds and Grant Proceeds are pledged to the repayment of said interim financing, it is recognized that the Grant Proceeds may be applied to the extent required at the time of receipt of the Grant Proceeds, to the payment of costs of the Construction Project due and owing by the City at the time of receipt of such Grant Proceeds, rather than to the repayment of portions of the interim financing at that time. If and to the extent that the Grant Proceeds are in excess of any costs of the Construction Project due and owing at the time of receipt thereof, such Grant Proceeds may be applied, in the same manner as set out hereinabove, to the reduction of the amount of the interim financing, after which, such interim financing may again be increased as theretofore.

It is understood that the foregoing constitutes an alternative method of obtaining interim financing, and does not preclude the authorization and sale, by public advertisement or otherwise, of bond anticipation notes and/or grant anticipation notes to the most favorable bidder on the open market, by concurrent or subsequent proceedings of the City.

B. Multiple Advances by FmHA. In the event the Current Bonds are purchased by the FmHA, and in the event the City is unable to obtain a commitment for interim financing for the Construction Project from any Interim Lender at reasonable rates and terms, the Mayor is authorized to request Multiple Advances of loan funds from the FmHA.

unpaid, and to the extent permitted by law, the System shall continue to be operated and maintained on a Fiscal Year basis.

Not later than sixty days after the end of each Fiscal Year, beginning immediately after the issuance of the Current Bonds, the City agrees to cause to be prepared a detailed statement of income and expenditures for the Fiscal Year, a current financial statement and a proposed annual budget of current expenses (the "Proposed Budget") of the System for the then ensuing Fiscal Year, itemized on the basis of monthly requirements. A copy of said Proposed Budget shall be mailed to any Bondowner who may request in writing a copy of such Proposed Budget and to the FmHA without request if the Government is the Owner of any of the Current Bonds.

For the purpose of the Proposed Budget, current expenses shall include all reasonable and necessary expenses of operating, repairing, maintaining and insuring the System, but shall exclude depreciation and payments into the Prior Sinking Fund, the Current Sinking Fund, the Prior Reserve Fund, the Current Reserve Fund, the Depreciation Reserve Fund and the Depreciation Fund. The City covenants that the current expenses incurred in any year will not exceed the reasonable and necessary amounts therefor, and that the City will not expend any amount or incur any obligation for operation or maintenance and repair in excess of the amounts provided for current expenses in the annual budget, except upon resolution by the City that such expenses are necessary to operate and maintain the System.

Not later than sixty days after the end of each Fiscal Year, the City shall prepare an estimate of gross revenues to be derived from the operation of the System for said Fiscal Year, and, to the extent that said gross revenues are insufficient (a) to pay debt service requirements on all Outstanding Bonds during the ensuing Fiscal Year, (b) to accumulate and maintain all required reserves enumerated herein and (c) to pay current expenses, the City shall revise the rates and charges sufficiently to provide the funds required.

If the Owners of at least 50% of the principal amount of the Outstanding Bonds, or the Government so long as it is the Owner of any of said Outstanding Bonds, so request, the City Council shall hold an open hearing not later than thirty days before the beginning of the ensuing Fiscal Year, at which time any Bondowner may appear by agent or attorney and may file written objections to such proposed budget. Notice of the time and place of such hearing shall be mailed at least fifteen days prior to the hearing to each registered Bondowner and to the Government.

The City covenants that annually before the first day of July, the annual budget for the then current Fiscal Year will be adopted substantially in accordance with the Proposed Budget, and that no expenditures for operation and maintenance expenses

of the System in excess of the budgeted amount shall be made during such Fiscal Year unless directed by said City by a specific resolution duly adopted.

Section 504. General Covenants. The City, through its City Council, hereby covenants and agrees with the Owners of the Current Bonds that:

- (1) It will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the Commonwealth of Kentucky;
- (2) It will make and collect reasonable and sufficient rates and charges for services and facilities rendered by the System;
- (3) It will segregate the revenues and income from the System and make application thereof consistent with and as provided by this Ordinance;
- (4) Unless the written consent of the Owners of a majority of the principal amount of the Outstanding Bonds has been obtained, the City agrees not to sell, lease, mortgage or in any manner dispose of any integral part of the System, including any and all appurtenances thereto and extensions, additions and improvements that may be made thereto, until all of the Outstanding Bonds shall have been paid or provided for in full, as provided herein; subject to the provisions of Section 607 hereof;
- (5) It will maintain in good condition and continuously operate the System and appurtenances thereto and will charge such rates and charges for the services rendered thereby so that the gross income and revenues will be sufficient at all times (i) to pay the interest on and principal of the Outstanding Bonds as same become due, (ii) to pay the cost of operating and maintaining the System, and (iii) to provide for an adequate depreciation account;
- (6) It will carry and maintain insurance on properties of the System subject to loss or damage in amounts and against hazards substantially in accordance with the practices of other districts, cities or corporations which own and maintain combined and consolidated waterworks and sewer systems under similar conditions; and so long as the Government is the Owner of any of the Outstanding Bonds, the Government will be listed as co-beneficiary on any such policy; and the City shall further comply

with the insurance requirements of Section 506 hereof (involving insurance on motors, tanks and structures); and

- (7) It will, pursuant to Section 96.930-96.943 of the Kentucky Revised Statutes and other applicable legal provisions, cause rates and charges for sewer services provided by the System to be billed simultaneously with rates and charges for water service furnished to sewer customers by the System, and will provide that water service will be discontinued to any premises where there is a failure to pay any part of the aggregate charges so billed, including such penalties and fees for disconnection and/or reconnection as may be prescribed from time to time.

Section 505. Other Covenants Applicable So Long as FmHA Owns Any Bonds. So long as the FmHA shall own any of the Current Bonds, the City shall comply with such FmHA regulations, requirements and requests as shall be made by the FmHA, including the furnishing of operating and other financial statements, in such form and substance and for such periods as may be requested by the FmHA, the carrying of insurance of such types and in such amounts as the FmHA may specify, with insurance carriers acceptable to the FmHA and compliance with all of the terms and conditions of the Loan Resolution (FmHA Form 1942-47) adopted and executed by the City, which is hereby authorized, approved, ratified and confirmed.

Section 506. Insurance on Motors, Tanks and Structures. If and to the extent not now fully required by the Prior Bond Ordinance, the City shall (a) immediately after the enactment of this Ordinance and (b) at the time of final acceptance of the Construction Project from the Contractors, insure all electric motors, pumping stations and major structures of the System in an amount recommended by the Engineers and approved by the FmHA, so long as the FmHA is the Owner of any of the Current Bonds, for the hazards usually covered in such area, and shall similarly insure same in an amount recommended by the Engineers, without the necessity of approval by the FmHA if and whenever the City has Outstanding Bonds against the System and none of such Outstanding Bonds are owned by the FmHA.

ARTICLE 6. INFERIOR BONDS AND PARITY BONDS.

Section 601. Inferior Bonds. Except as provided below in this Article, the City shall not, so long as any of the Prior Bonds, Current Bonds and/or Parity Bonds are outstanding, issue any additional bonds payable from the revenues of the System unless the security and/or pledge of the revenues to secure such additional bonds are made inferior and subordinate in all respects to the security of the Prior Bonds, the Current Bonds and any Parity Bonds.

The City expressly reserves the right at any time to issue its bonds or other obligations payable from the revenues of the System and not ranking on a parity basis with the Current Bonds, without any proof of previous earnings or net revenues, provided that the consent of the FmHA must be obtained prior to the issuance of any inferior bonds so long as the FmHA owns any of the Prior Bonds, the Current Bonds or any Parity Bonds, and provided further that, after the initial completion of the Construction Project, such inferior bonds may be issued only for the purpose of providing for future extensions, additions and improvements to the System, and only in express recognition of the priorities, liens and rights created and existing for the security, source of payment and protection of the Prior Bonds, the Current Bonds and any Parity Bonds; provided further, that nothing in this Section is intended to restrict or shall be construed as a restriction upon, the ordinary refunding of the Prior Bonds, the Current Bonds and any other Parity Bonds.

Section 602. Parity Bonds to Complete the Construction Project. The City hereby certifies, covenants and agrees that in the event that the cost of completion of the construction of the Construction Project shall exceed the moneys available to the City from any and all sources, the City shall have the right, if necessary, to provide for such excess, and only such excess, through the issuance of Parity Bonds, provided the City has obtained a certification from the Engineers to the effect that it is necessary to issue the desired amount of Parity Bonds in order to enable the City to pay the cost (not otherwise provided) of the completion of the Construction Project, and provided the City has complied with the provisions of Section 603 below or has obtained:

- (a) the consent of the FmHA as the Owner of the Prior Bonds at that time or the consent of any other Owners of the Prior Bonds, and
- (b) the consent of (1) the FmHA if the Government is the purchaser of the Current Bonds or (2) the Owners of at least 75% of the principal amount of the Current Bonds outstanding, if the Current Bonds have been issued, sold and delivered and are held by Owners other than the Government.

Section 603. Parity Bonds to Finance Future Improvements. In the Prior Bond Ordinance, the City reserved the right and privilege, and does hereby reserve the right and privilege, of issuing additional Parity Bonds, but only under the conditions specified in the Prior Bond Ordinance, which conditions are hereinafter repeated, taking into account the issuance of the Current Bonds, as follows:

The City further reserves the right to add new combined and consolidated waterworks and sewer facilities and/or to finance future extensions, additions and improvements to the System by the issuance of one or more additional series of Parity Bonds to be secured by a parity lien on and ratably payable on a parity with the Current Bonds, from the revenues of the System, subject to the priority of the Prior Bonds, provided:

(a) The facilities to be constructed from the proceeds of the additional Parity Bonds are made a part of the System and their revenues are pledged as additional security for the additional Parity Bonds and for the outstanding Prior Bonds and Current Bonds.

(b) The City is in compliance with all covenants and undertakings in connection with all of the Outstanding Bonds and payable from the revenues of the System or any part thereof.

(c) The annual net revenues (defined as gross revenues less operation and maintenance expenses), of the then existing System for the Fiscal Year preceding the year in which such Parity Bonds are to be issued, adjusted as hereinafter provided, shall be certified by an independent Certified Public Accountant to be equal at least one hundred twenty percent (120%) of the average annual debt service requirements for principal and interest on all Outstanding Bonds payable from the revenues of the System, including such requirements of the Prior Bonds, the Current Bonds, any Parity Bonds then outstanding plus the anticipated debt service requirements of any Parity Bonds then proposed to be issued. The calculation of average annual debt service requirements of principal and interest on the additional Parity Bonds to be issued shall, regardless of whether such additional Parity Bonds are to be serial or term bonds, be determined on the basis of the principal of and interest on such Parity Bonds being payable in approximately equal annual installments.

(d) The annual net revenues referred to above may be adjusted for the purpose of the foregoing computations to reflect:

(1) any revisions in the schedule of rates or charges being imposed at the time of the issuance of any such additional Parity Bonds, and

(2) any increase in the annual net revenues to be realized from the proposed extensions, additions and improvements being financed (in whole or in part) by such additional Parity Bonds;

provided all such adjustments shall be based upon and included in a certification of an Independent Consulting Engineer.

(e) Compliance with Section 603(a) through (d) shall not be necessary for the issuance of Parity Bonds if the City has obtained (1) the written consent of the FmHA for the issuance of such Parity Bonds, if the FmHA is the Owner of any of the Prior Bonds or any of the Current Bonds at the time of issuance of such Parity Bonds; (2) the written consent of the Owners of all of the then outstanding Prior Bonds and (3) the written consent of the Owners of 75% of the principal amount of the then outstanding Current Bonds and any other Parity Bonds; provided, however, that if the City obtains the written consent of the Owners of all Current Bonds and of all Parity Bonds outstanding against the System, no other prerequisite need be complied with by the City in order to issue Parity Bonds.

(f) Reference is made to Section 606 hereof as to the necessity of obtaining the written consent of the FmHA for the issuance of future bonds encumbering the System while the FmHA owns any Bonds payable from the revenues of the System.

Section 604. Covenants to be Complied with at Time of Issuance of Parity Bonds. The City hereby covenants and agrees that in the event any Parity Bonds are issued, the City shall:

(a) Adjust the monthly amount to be deposited into the Current Sinking Fund on the same basis as that prescribed in the provisions establishing such Current Sinking Fund, to reflect the annual debt service requirements of the Parity Bonds;

(b) Adjust the minimum annual amount to be deposited monthly into the Current Reserve Fund on the same basis as that prescribed in the provisions establishing such Current Reserve Fund, taking into account the future debt service requirements of all bonds payable out of the Current Sinking Fund which will then be outstanding against the System; and

(c) Make such Parity Bonds payable as to principal on July 1 of each year in which principal falls due and payable as to interest on January 1 and July 1 of each year until the final maturity of such Parity Bonds.

Section 605. Prepayment Provisions Applicable to Parity Bonds. If, in connection with any subsequently issued series of Parity Bonds, it is provided that excess revenues in the Revenue Fund shall be used to prepay Outstanding Bonds in advance of scheduled maturity, or if the City at its option undertakes to prepay Outstanding Bonds in advance of scheduled maturity, it is agreed and understood, for so long as the Government owns any of the Outstanding Bonds, that no such prepayment will be effected without the approval of the FmHA.

Section 606. Consent of the FmHA Regarding Future Bonds. Notwithstanding any other provisions of this Ordinance, the City agrees that so long as the Government owns any Outstanding Bonds against and/or payable from the revenues of the System, the City will not issue any future bonds, notes or other obligations against, secured by or payable from the revenues of the System without the written consent of the FmHA.

Section 607. Priority of Lien; Permissible Disposition of Surplus or Obsolete Facilities. The City covenants and agrees that so long as any of the Prior Bonds and/or Current Bonds are outstanding, the City will not sell or otherwise dispose of any of the facilities of the System, or any part thereof, and, except as provided above, the City will not create or permit to be created any charge or lien on the revenues thereof ranking equal or prior to the charge or lien of the Prior Bonds or Current Bonds. Notwithstanding the foregoing, the City may at any time permanently abandon the use of, or sell at fair market value, any part of the facilities of the System, provided that:

- (a) The City is in compliance with all covenants and undertakings in connection with all of the Outstanding Bonds, and the required reserves for such Outstanding Bonds will have been accumulated;
- (b) The City will, in the event of any such sale, apply the proceeds to either (1) redemption of Outstanding Bonds in accordance with the provisions governing prepayment of bonds in advance of maturity or (2) replacement of the facility so disposed of by another facility, the revenues of which shall be incorporated into the System, as hereinbefore provided;
- (c) The City certifies, in good faith, prior to any abandonment of use, that the facilities to be abandoned are no longer economically feasible of producing net revenues; and

- (d) The City certifies, in good faith, that the estimated net revenues of the remaining facilities of the System for the then next succeeding Fiscal Year, plus the estimated net revenues of the facilities, if any, to be added to the System, comply with the earnings requirements hereinbefore provided in the provisions and conditions governing the issuance of Parity Bonds.

Notwithstanding any other provisions hereof, so long as any of the Prior Bonds and/or Current Bonds are held by the Government, the City shall not dispose of its title to the System or to any part thereof, without first obtaining the written consent of the FmHA.

ARTICLE 7. DEFAULT AND CONSEQUENCES.

Section 701. Events of Default. The following items shall constitute an Event of Default on the part of the City:

- (a) The failure to pay principal of the Current Bonds or the Prior Bonds as and when same shall become due and payable, either at maturity or by proceedings for redemption.
- (b) The failure to pay any installment of interest on the Current Bonds or the Prior Bonds when the same shall become due and payable or, if any or all of the Outstanding Bonds are owned by the FmHA, within 30 days thereafter.
- (c) The default by the City in the due or punctual performance of any of the covenants, conditions, agreements and provisions contained in the Current Bonds, the Prior Bonds, the Prior Bond Ordinance or in this Ordinance.
- (d) The failure to promptly repair, replace or reconstruct facilities of the System that have been damaged and/or destroyed.
- (e) The entering of any order or decree with the consent or the acquiescence of the City, appointing a receiver of all or any part of the System or any revenues thereof; or if such order or decree shall be entered without the acquiescence or consent of the City, its failure to have the order vacated, discharged or stayed on appeal within 60 days after entry.

Section 702. Consequences of Event of Default. Any Owner of the Current Bonds may enforce and compel the performance of all duties and obligations of the City set forth herein. Upon the occurrence of an Event of Default, then upon the filing of a suit by any Owner of said Bonds, any court having jurisdiction of the action may appoint a receiver to administer said System on behalf of the City with power to charge and collect rates sufficient to provide for the payment of operating and maintenance expenses and for the payment of principal of and interest on the Prior Bonds and the Current Bonds and to provide and apply the income and revenues in conformity with this Ordinance and with the laws of the Commonwealth of Kentucky.

The City hereby agrees to transfer to any bona fide receiver or other subsequent operator of the System, pursuant to any valid court order in a proceeding brought to enforce collection or payment of the City's obligations, all contracts and other rights of the City pertaining to the System, conditionally, for such time only as such receiver or operator shall operate by

authority of the court. Upon the occurrence of an Event of Default, the Owner of any of the Prior Bonds or the Current Bonds may require the governing body of the City by appropriate order to raise the rates a reasonable amount consistent with the requirements of this Ordinance.

**ARTICLE 8. CONTRACTUAL PROVISIONS; GRANT APPROVAL;
MISCELLANEOUS PROVISIONS.**

Section 801. Ordinance Contractual with Bondowners.

The provisions of this Ordinance constitute a contract between the City and its City Council and the Owners of the Current Bonds as may be outstanding from time to time; and after the issuance of any of said Current Bonds, no change, alteration or variation of any kind of the provisions of this Ordinance shall be made in any manner which will affect an Owner's rights except as herein provided or except with the written consent of all Bondowners until such time as all of the Current Bonds and the interest thereon have been paid in full or fully provided for; provided that the City Council may adopt any resolution for any purpose not inconsistent with the terms of this Ordinance and which shall not impair the security of the Owners of the Current Bonds and/or for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective or inconsistent provisions contained herein or in any resolution or other proceedings pertaining hereto.

It is further agreed that the Owners of 80% in principal amount of the Current Bonds at any time outstanding shall have the right to consent to and approve the adoption of resolutions or other proceedings, modifying or amending any of the terms or provisions contained in this Ordinance, subject to the conditions that (a) this Ordinance shall not be so modified in any manner that may adversely affect the rights of the Owners of any of the Prior Bonds, nor in any manner that may adversely affect the rights of any certain Owners of the Prior Bonds and Current Bonds without similarly affecting the rights of all Owners of such Prior Bonds, Current Bonds and any Parity Bonds then outstanding, or to reduce the percentage of the number of Owners whose consent is required to effect a further modification and (b) no such change may be effected without the consent of the FmHA so long as the FmHA owns any of the Outstanding Bonds.

Section 802. All Current Bonds are Equal. The Current Bonds authorized herein shall not be entitled to priority one over the other in the application of the income and revenues of the System, or with respect to the security for their payment, regardless of the time or times of their issuance, it being the intention that there shall be no priority among any of the Current Bonds regardless of the fact that they may be actually issued and delivered at different times.

Section 803. City Obligated to Refund Current Bonds Owned by Government Whenever Feasible; Defeasement Prohibited. So long as the Government is the Owner of any of the Current Bonds, if it appears to the Government that the City is able to refund such Current Bonds in whole or in part, by obtaining a loan for such purposes from responsible commercial or private credit sources, or to sell bonds of the City in the open market, at reasonable rates and terms, the City will, upon request of the

Government, obtain such loan and/or issue such bonds in sufficient amount to repay the Government and will take all such action as may be required in connection therewith.

In addition, so long as the Government is the Owner of any of the Current Bonds, the City shall not issue any bonds or other obligations for the purpose of defeasing or otherwise terminating the lien of the Current Bonds without immediately prepaying all of the then outstanding Current Bonds.

Section 804. Approval and Acceptance of FmHA Grant Agreement. As set out in Section 105 hereof, the FmHA has agreed to make a grant to the City in the amount of \$541,000 (the "FmHA Grant") to supplement the proceeds of the Current Bonds in order to provide the total cost of the Construction Project, and the FmHA has requested the City to approve, accept and execute FmHA Form 1942-31 (the "FmHA Grant Agreement"), setting out the terms and conditions upon which said FmHA Grant will be made. Said FmHA Grant Agreement is hereby approved, and the Mayor and the City Clerk are authorized to execute said FmHA Grant Agreement on behalf of the City. The Mayor and City Clerk are also authorized on behalf of the City to accept any and all other FmHA Grants offered to the City in connection with the Construction Project and to execute any and all FmHA Grant Agreements and any other documents as may be requested by the FmHA in connection with FmHA Grants which have been and/or which may hereafter be approved for such Construction Project.

Section 805. Use of City Streets. The use of all City streets, highways, alleys and public ways for the construction and maintenance of the Construction Project is hereby authorized, without the necessity of further permits, licenses or other certifications from the City.

Section 806. Authorization, Ratification and Confirmation of Approval and Execution of Various Documents. The City Council hereby authorizes, approves, ratifies and confirms the previous action of the officers of the City in approving and executing various documents related to the financing of the Project, including the following:

- (a) Legal Services Agreement with Bond Counsel.
- (b) Legal Services Agreement with Local Counsel.
- (c) Letter of Intent to Meet Conditions of FmHA Letter of Conditions (FmHA Form 442-46).
- (d) Loan Resolution (FmHA Form 442-47).
- (e) Agreement for Engineering Services with the Engineers.

Section 807. Authorization of Condemnation to Acquire Easements and/or Sites. In the event that (a) any necessary deeds of easement to allow construction of the Construction Project over the property of any property owner or (b) any necessary deed to the necessary site of any combined and consolidated waterworks and sewer facility of the Construction Project shall not be obtained through negotiation within 10 days after the date of enactment of this Ordinance and in the event that (1) such combined and consolidated waterworks and sewer lines cannot be located within the right-of-way of the State and/or County road involved, and/or (2) such combined and consolidated waterworks and sewer facilities cannot be located on a site already owned by the City, Local Counsel is hereby authorized and directed to file condemnation actions to obtain such necessary rights-of-way and/or sites forthwith, without further authorization or direction from the City or the City Council. Local Counsel is further directed to follow the same condemnation procedure in the event that it becomes necessary, through change orders, line extensions and/or errors in the location of property lines and/or property owners, to obtain additional easements, rights-of-way and/or sites for completion of the Construction Project and whenever the necessary deed is not obtained by negotiation at least 10 days prior to the date on which construction is contemplated in the respective easement, right-of-way and/or site.

The City further approves the payment from the funds available therefor (proceeds of Current Bonds, Grant Proceeds and other funds) allocated to the costs of the Construction Project to pay any judgment award, or compromise, determined by Local Counsel with the acquiescence of the City Council, toward the costs of such easements, rights-of-way and/or sites; provided, in each instance, that the payment of such funds to satisfy any judgment, award or compromise must first be approved by the FmHA; and the City Council further determines that if and to whatever extent the funds available from the proceeds of the Bonds, Grant Proceeds and other supplemental funds, shall be inadequate to pay any judgment, award or compromise amount for such easements, rights-of-way and/or sites, or if the City is unable to obtain the approval of the FmHA for any such payment, the City Council shall take all reasonably necessary actions, within the powers and authority of the City Council, to make such additional amount available from all other available City resources.

ARTICLE 9. SALE OF CURRENT BONDS.

Section 901. Sale of Current Bonds. The Current Bonds shall be offered publicly for sale upon the basis of sealed, competitive bids at such time as the City Council shall designate.

A suggested form of "Notice of Bond Sale", a suggested form of "Official Notice of Sale of Bonds" and a suggested form of "Bid Form", having been prepared in advance by Bond Counsel, and a suggested form of Statement of Essential Facts having been prepared in advance by the Engineers, and all of such documents having been found to be in satisfactory form, the same are hereby approved, and a copy of each is hereby ordered to be filed in the records of the City Clerk with the Minutes of the meeting at which this Ordinance is enacted. The Notice of Bond Sale shall be signed by the City Clerk and may be used for the purpose of publishing notice of the sale of the Current Bonds. Copies of such documents shall be furnished to any interested parties who may request same.

In the event that there is no bid or that all bids are rejected, the City may readvertise the sale pursuant to this Ordinance.

Section 902. Possible Adjustment in Date of Current Bonds, Maturities, Prepayment Provisions and Other Dates if Delivery is Delayed. In the event that delivery of the Current Bonds authorized herein is delayed for any reason until after January 1, 1992, the name of the Current Bonds may be changed to reflect the year in which the Current Bonds will be issued, with maturities, the applicable prepayment date and all other dates being adjusted accordingly.

ARTICLE 10. CONCLUDING PROVISIONS.

Section 1001. Covenant of City to Take All Necessary Action To Assure Compliance with Internal Revenue Code. In order to assure the Purchaser and any subsequent owner of the Current Bonds that such Current Bonds shall continue to be legal and that interest thereon will continue to be excludable from gross income for Federal income tax purposes and exempt from all Kentucky income taxation, the City covenants to and with the owners of the Current Bonds to take the following action:

(a) The City will (1) take all actions necessary to comply with the provisions of the Code necessary to assure that interest on the Current Bonds will be excludable from gross income for Federal income tax purposes, (2) will take no actions which will violate any of the provisions of the Code, and (3) not use the proceeds of the Current Bonds for any purpose which will cause interest on the Current Bonds or on interim financing obligations, including but not limited to the Note, issued pursuant to Section 302 hereof to become includable in gross income for Federal income tax purposes.

(b) The City hereby certifies that it does not reasonably anticipate that the total principal amount of "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code which the City, or any subordinate entity of the City, will issue during the calendar year during which the Current Bonds are issued, will exceed \$10,000,000; and therefore the City hereby designates the Current Bonds and all interim financing obligations, including but not limited to the Note, issued pursuant to Section 302 hereof as "qualified tax-exempt obligations".

(c) The City further certifies that the Current Bonds and any and all interim financing obligations of the City are not "private activity bonds" within the meaning of the Code.

(d) The City covenants and agrees that it will not issue, or cause any subordinate entity of the City to issue on the City's behalf, bonds or other obligations considered under the Code to be "tax-exempt obligations" (other than private activity bonds) in the aggregate principal amount in excess of \$5,000,000 during the calendar year in which the Bonds will be issued.

(e) The City covenants and agrees to comply with the rebate requirements on certain excess earnings imposed by Section 148 of the Code, and in the event it is determined by the City, upon the advice of Bond

Counsel, that the Construction Account, or any other fund established hereunder, is subject to said rebate requirements and does in fact generate earnings from "non-purpose investments" in excess of the amount which said investments would have earned at a rate equal to the "yield" on the Current Bonds, plus any income attributable to such excess, the City covenants and agrees to rebate to the United States of America any such excess generated from such investments and remit such excess to the United States of America on or before five years from the date of issuance of the Bonds, and once every five years thereafter until the final retirement of the Bonds; the last installment, to the extent required, to be made no later than sixty days following the date on which funds sufficient for the complete retirement of the Bonds are deposited with the Paying Agent or any escrow agent. The City further covenants to file any and all reports, if any, as may be required to be filed with the Government with regard to the liability or non-liability of the City as to any such rebate requirements and to maintain records in regard thereto for the period of time required by applicable Treasury regulations.

Section 1002. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, which shall continue in full force and effect.

Section 1003. All Provisions in Conflict Repealed. All motions, resolutions and orders, or parts thereof, in conflict with the provisions of this Ordinance, are to the extent of such conflict hereby repealed. It is hereby specifically ordered and provided that any proceedings heretofore taken for the issuance of other bonds of the City payable or secured in any manner by all or any part of the income and revenues of said System or any part thereof, and which have not been heretofore sold, are hereby revoked and rescinded, and none of such other bonds shall be issued and delivered. The City covenants to correct by appropriate proceedings any required procedure previously taken invalidly.

Section 1004. Effective Date. This Ordinance shall take effect upon its enactment and publication by title and summary, as provided by law.

Introduced and given first reading on January 7, 1992.

Given second reading and enacted on January 8, 1992.

Mayor

(Seal of City)

Attest:

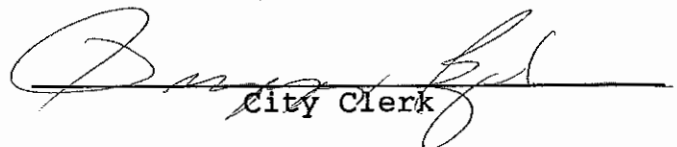

City Clerk

CERTIFICATION

I, PEGGY JENKINS, hereby certify that I am the duly qualified and acting City Clerk of the City of Russellville, Russellville, Kentucky, and that the foregoing Ordinance is a true copy of an Ordinance duly enacted by the City Council of said City, signed by the Mayor of said City and attested under Seal by me as City Clerk, at a properly convened meeting of said City Council held on _____, 1991, as shown by the official records of said City in my custody and under my control.

I further certify that said meeting was duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.825, that a quorum was present at said meeting, that said Ordinance has not been modified, amended, revoked or repealed, and that same is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature as City Clerk and the official Seal of the City this _____, 1991.


City Clerk

(Seal of City)

EXHIBIT A

Schedule of Principal Installments

<u>Payment Due</u> <u>July 1,</u>	<u>Principal</u> <u>Installments</u>
1994	\$1,500
1995	1,500
1996	1,500
1997	1,500
1998	1,500
1999	2,000
2000	2,000
2001	2,000
2002	2,000
2003	2,000
2004	2,500
2005	2,500
2006	2,500
2007	2,500
2008	3,000
2009	3,000
2010	3,000
2011	3,000
2012	3,500
2013	3,500
2014	3,500
2015	4,000
2016	4,000
2017	4,500
2018	4,500
2019	4,500
2020	5,000
2021	5,000
2022	5,500
2023	5,500
2024	6,000
2025	6,000
2026	6,500
2027	6,500
2028	7,000
2029	7,500
2030	8,000
2031	8,000

EXHIBIT B

(FORM OF FULLY REGISTERED BOND)

UNITED STATES OF AMERICA
COMMONWEALTH OF KENTUCKY
CITY OF RUSSELLVILLE WATER AND SEWER REVENUE BONDS OF 1991

No. R- _____ INTEREST RATE: _____ % \$ _____

KNOW ALL MEN BY THESE PRESENTS:

That the City of Russellville (the "City"), acting by and through its City Council (the "City Council"), a fourth class city in Logan County, Kentucky, for value received, hereby promises to pay to

_____ the registered owner hereof, or to its registered assigns, solely from the fund hereinafter identified, the sum of

_____ DOLLARS (\$ _____),

on the first day of July, in years and installments as follows:

<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>
-------------	------------------	-------------	------------------	-------------	------------------

[Here the printer of the Current Bond will print the maturities of the Current Bonds purchased by the individual Purchaser (registered Owner)]

and in like manner, solely from said fund, to pay interest on the balance of said principal sum from time to time remaining unpaid, at the Interest Rate specified above, semiannually on the first days of January and July in each year, beginning with the first January or July after the date of this Bond, until said sum is paid, except as the provisions hereinafter set forth with respect to prepayment may be and become applicable hereto, both principal and interest being payable, without deduction for exchange or collection charges, in lawful money of the United States of America, at the address of the registered owner shown on the registration book of the City.

This Bond is issued by the City under and in full compliance with the Constitution and Statutes of the Commonwealth of Kentucky, including Sections 58.010 through 58.140, inclusive, and Section 82.082 of the Kentucky Revised Statutes (collectively the "Act"), and pursuant to a duly enacted Bond Ordinance of the City authorizing same (the "Current Bond Ordinance"), to which Current Bond Ordinance reference is hereby made for a description of the nature and extent of the security thereby created, the

rights and limitations of rights of the registered owner of this Bond, and the rights, obligations and duties of the City, for the purpose of financing the cost (not otherwise provided) of the construction of extensions, additions and improvements to the existing combined and consolidated waterworks and sewer system of the City (said existing combined and consolidated waterworks and sewer system, together with said extensions, additions and improvements, being hereinafter referred to as the "System").

This Bond is issued by the City under and in full compliance with the Constitution and Statutes of the Commonwealth of Kentucky, including Sections 58.010 through 58.140, inclusive, and Section 82.082 of the Kentucky Revised Statutes (collectively the "Act"), and pursuant to a duly enacted Bond Ordinance of the City authorizing same (the "Current Bond Ordinance"), to which Current Bond Ordinance reference is hereby made for a description of the nature and extent of the security thereby created, the rights and limitations of rights of the registered owner of this Bond, and the rights, obligations and duties of the City, for the purpose of financing the cost (not otherwise provided) of the construction of a new sewer system for the City, which Current Bond Ordinance ordered that the existing waterworks system and said new sewer system of the City be combined and consolidated into a single combined and consolidated waterworks and sewer system of the City (the "System").

This Bond is issued subject to the vested rights and priorities in favor of the owners of the outstanding City of Russellville Water and Sewer Revenue Bonds, dated April 1, 1967 (the "Prior Bonds"), authorized by an Ordinance enacted by the City Council of the City on February 21, 1967 (the "Prior Bond Ordinance"). Accordingly, this Bond, together with any bonds ranking on a parity herewith, is payable from and secured on a second lien basis by a pledge of the gross revenues to be derived from the operation of the System, after providing for the requirements of the Prior Bonds and the requirements of the Prior Bond Ordinance, and the requirements for the current costs of operation and maintenance of the System.

This Bond is issued subject to the vested rights and priorities in favor of the owners of the outstanding City of Russellville Water and Sewer Revenue Bonds, dated April 1, 1967 (the "Bonds of 1967"), authorized by an Ordinance enacted by the City Council of the City on February 21, 1967 (the "1967 Bond Ordinance"); the outstanding City of Russellville Water and Sewer Revenue Bonds, Series of 1972, dated January 23, 1974 (the "Bonds of 1972"), authorized by an Ordinance enacted by the City Council of the City on June 20, 1972 (the "1972 Bond Ordinance"); the outstanding City of Russellville Water and Sewer Revenue Bonds, Series of 1984, dated September 1, 1984 (the "Bonds of 1984"), authorized by an Ordinance enacted by the City Council of the City on September 4, 1984 (the "1984 Bond Ordinance"); [hereinafter the Bonds of 1967, the Bonds of 1972 and the Bonds of 1984 shall be collectively referred to as the "Prior Bonds", and the

1967 Bond Ordinance, the 1972 Bond Ordinance and the 1984 Bond Ordinance shall be collectively referred to as the "Prior Bond Ordinance"]. Accordingly, this Bond, together with any bonds ranking on a parity herewith, is payable from and secured on a third lien basis by a pledge of the gross revenues to be derived from the operation of the System, after providing for the requirements of the Prior Bonds and the requirements of the Prior Bond Ordinance, and the requirements for the current costs of operation and maintenance of the System.

This Bond does not constitute an indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations and is payable solely out of the revenues of the System. As provided in the Current Bond Ordinance, the City covenants that so long as any of the Prior Bonds and/or this Bond are outstanding, the System will be continuously owned and operated by the City as a revenue producing public undertaking within the meaning of the aforesaid Act for the security and source of payment of the Prior Bonds and of this Bond, and that the City will fix, and if necessary adjust, from time to time, such rates for the services and facilities of the System and will collect and account for the revenues therefrom sufficient to pay the cost of operation and maintenance of the System and to produce net revenues to be deposited and maintained in said Sinking Fund in amounts sufficient to pay promptly the principal of and interest on the Prior Bonds, this Bond and all other bonds ranking on a parity therewith as may be outstanding from time to time.

A third statutory mortgage lien has been created and granted by the City in the Current Bond Ordinance pursuant to the Act, and more specifically by Section 106.080 of the Kentucky Revised Statutes, to and in favor of the registered owner of this Bond, ranking on a parity with the Prior Bonds; and the System and all appurtenances thereof and extensions thereto shall remain subject to such statutory mortgage lien until payment in full of the principal of and interest on the Prior Bonds and on this Bond.

The City has reserved the right to issue additional bonds ranking on a parity as to security and source of payment with this Bond, to finance future extensions, additions and improvements to the System, provided the necessary calculations as to the earnings coverage required by the Current Bond Ordinance are in existence and properly certified.

This Bond shall be registered as to principal and interest in the name of the owner hereof, after which it shall be transferable only upon presentation to the City Clerk of the City as the Bond Registrar, with a written transfer duly acknowledged by the registered owner or his duly authorized attorney, which transfer shall be noted upon this Bond and upon the book of the City kept for that purpose.

The City, at its option, shall have the right to prepay, on any interest payment date on and after July 1, 2001, in inverse chronological order of the installments due on this Bond, the entire principal amount of this Bond then remaining unpaid, or such lesser portion thereof, in a multiple of One Thousand Dollars (\$1,000), as the City may determine, at a price in an amount equivalent to the principal amount to be prepaid plus accrued interest to the date of prepayment, without any prepayment premium. Notice of such prepayment shall be given by certified mail to the registered owner of this Bond or his assignee, at least 30 days prior to the date fixed for prepayment. Notice of such prepayment may be waived with the written consent of the registered owner of this Bond.

So long as the registered owner of this Bond is the United States of America, or any agency thereof, the entire principal amount of this Bond, or installments in multiples of \$1,000, may be prepaid at any time in inverse chronological order of the installments due.

Upon default in the payment of any principal or interest payment on this Bond, or upon failure by the City to comply with any other provision of this Bond or with any provision of the Current Bond Ordinance, the registered owner may, at his option, institute all rights and remedies provided by law or by said Current Bond Ordinance.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond, do exist, have happened and have been performed in due time, form and manner as required by law, and that the face amount of this Bond, together with all other obligations of the City, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

IN WITNESS WHEREOF said City of Russellville, by its City Council, has caused this Bond to be executed by its Mayor, its corporate seal to be hereunto affixed, and attested by its City Clerk, on the date of this Bond, which is

CITY OF RUSSELLVILLE, KENTUCKY

By _____
Mayor

Attest:

City Clerk

(Seal of City)

PROVISION FOR REGISTRATION

This Bond shall be registered on the registration book of the City kept for that purpose by the City Clerk, as Bond Registrar, upon presentation hereof to said City Clerk, who shall make notation of such registration in the registration blank, and this Bond may thereafter be transferred only upon written transfer acknowledged by the registered owner or his attorney, such transfer to be made on said book and endorsed hereon.

(FORM OF REGISTRATION)

Date of Registration	Name of Registered Owner	Signature of City Clerk of the City of Russellville, Bond Registrar
:	:	:
:	:	:
:	:	:
:	:	:
:	:	:

(FORM OF ASSIGNMENT)

For value received, this Bond is hereby assigned, without recourse and subject to all of its terms and conditions, unto _____, this ____ day of _____, _____.

By: _____

EXHIBIT C

REQUISITION CERTIFICATE

Re: City of Russellville Water and Sewer Revenue Bonds
of 1991, in the amount of \$148,000.

The undersigned hereby certify as follows:

1. That they are the signatories required for construction and/or administrative draws pursuant to the Bond Ordinance adopted by the City of Russellville, Kentucky (the "City").
2. That the following named firms and/or persons are now entitled to the aggregate sum of \$_____, itemized as set forth below and as per approved invoices attached hereto:

Firm/Person

Amount

3. That upon said amount being lent to said City and/or obtained by said City from the proceeds of the Current Bonds and/or other sources, the undersigned approve such expenditure and the payment of said amounts to said firms and/or persons, either directly or from amounts deposit in the "City of Russellville Water and Sewer Revenue Bond Construction Account", at the The Citizens National Bank, Russellville, Kentucky.

4. That we hereby certify that we have carefully inspected the work and, as a result of our inspection and to the best of our knowledge and belief, the amounts shown in this Requisition Certificate are correct and the work has been performed in accordance with the agreements between the City and the parties requesting payment.

IN TESTIMONY WHEREOF, witness the signature of the undersigned, this ____ day of _____, 19____.

LYNE & ASSOCIATES

By _____
Registered Professional
Engineer
State of Kentucky No. _____

Approved on _____

CITY OF RUSSELLVILLE, KENTUCKY

By _____
Mayor

Approved on _____

By _____
Authorized FmHA Official

Amount expended heretofore \$ _____

Amount approved herein _____

Total \$ _____