

01

EXHIBIT A

EAST KY. RECC. 69 KV

U. U. CO. 159 KV

BEREA SUB. 10,000 KVA 69/4 KV

BEREA SUBSTATION 69/4 KV 10 MVA

PROPOSED SUBSTATION

Berea (EM 1334)

11

12

BC 00405

BEREA SERVICE PROPOSAL

KENTUCKY Utilities Company  
(Company)

ELECTRIC RATE SCHEDULE  
WPS-87 (M)

Wholesale for Retail Resale Electric Service  
to Municipals and Burns College

AVAILABILITY

By Contract.

APPLICABILITY

To wholesale for retail resale electric service through one delivery point and one set of metering apparatus; billed separately in accordance with the Charges set out herein.

CUSTOMER FACILITIES

Customer must own and maintain all transformers and other facilities necessary to take service at the delivered voltage.

TERM

As set out in the Contract.

PAYMENT

Each month Customer will pay Company at its office, in cash or check of Customer, within ten days of rendition of bills, for all electricity delivered to Customer during the preceding month. If payment is by check of Customer, payment will be effective only if check is honored upon presentment.

RATE

Maximum Load Charge

Primary Service at nominal voltage of 2,400 volts through 12,470 volts,  
\$7.408 per kilowatt for all kilowatts of Maximum Load in the month.

Transmission Line Service at nominal voltage of 34,500 volts or more,  
\$7.364 per kilowatt for all kilowatts of Maximum Load in the month.

BC 00406

Issue Date: October 15, 1987

Effective Date: July 1, 1987

Determination of Maximum Load: The Maximum Load will be measured and will be the average kilowatt load used by Customer during the 15-minute period of maximum use during the month.

Energy Charge

2.33 cents per KWH used per month.

MINIMUM MONTHLY BILL

The Minimum Monthly Bill will be the Maximum Load Charge for the month, but never less than the Maximum Load Charge established during the eleven preceding months. The fuel Clause Charge shall be in addition to the Minimum Monthly Bill.

FUEL CLAUSE

The charge per KWH delivered under this Rate Schedule shall be increased or decreased to the nearest \$.00001 per KWH, during each month in accordance with the following Adjustment Factor:

$$\text{Adjustment Factor} = (Fm/Sm - Fb/Sb) \quad (\text{LD or LT})$$

Where: "F" is the expense of fuel and "S" is the KWH sales in the base "b" and current "m" periods. Fuel costs "F" and KWH sales "S" are as defined in Section 35.14 of the Regulations under the Federal Power Act. Base period is twelve months ending December 31, 1984, as determined from the Company's Period II studies as filed with FERC in August 1983. Current period shall be the same calendar month that energy billed under this Fuel Clause is consumed. "LT" is the Loss Factor which recognizes proper allowance for losses (estimated if necessary) associated only with wholesale sales for resale at the transmission voltage level. "LT" is determined from the following formula:

$$\text{"LT"} = \frac{\text{KWH Total Sales}}{\text{KWH Available for Sale at Transmission Voltage Level}}$$

"LD" is the Loss Factor which recognizes proper allowance for losses (estimated if necessary) associated only with wholesale sales for resale at the distribution voltage level. "LD" is determined from the following formula:

$$\text{"LD"} = \frac{\text{KWH Total Sales}}{\text{KWH Available for Sale at Transmission Voltage Level}} \times \frac{\text{KWH Delivered to Distribution System}}{\text{KWH Distribution Sales}}$$

INCREASES IN CUSTOMER'S REQUIREMENTS

Customer shall, on a continuing basis, forecast its requirements eight years in advance. Customer shall submit to Company Customer's forecast at least once every twelve months, the date by which Customer shall submit its forecast to be determined by mutual agreement.

BC 00407

Issue Date: October 15, 1987

Effective Date: July 1, 1987

Company shall plan and provide for forecasted increases in Customer's requirements, giving consideration to Company's and Customer's forecasts. Company shall submit to Customer at least once every twelve months the forecast Company uses to plan for Customer's requirements, the date by which Company shall submit its forecast to be determined by mutual agreement.

If Customer anticipates an increase in its requirements beyond that for which Company has planned, Customer shall notify Company as soon as possible. Company will provide for such an increase to the extent it is able to do so from its own resources or by purchasing power without impairing its ability to provide adequate service to other customers. As soon as practicable after receipt of such notice from Customer, Company will inform Customer whether Company is able to provide for the increased requirements, and the rate at which it will do so. If Company is unable to provide for Customer's increased requirements, Company will do so as soon as it reasonably can without impairing its ability to provide adequate service to other customers. The rate for service shall be the rate specified herein or in a superseding rate schedule properly filed with the Federal Energy Regulatory Commission.

#### CURTAILMENT

In the event any occurrence, condition or circumstance leads Company to request voluntary curtailment of consumption, or to impose mandatory curtailment of consumption, with respect to Company's own retail customers, or a segment thereof which would include the retail customers of Customer if Company supplied such retail customers directly, Customer will make the same request for voluntary curtailment of consumption, or impose the same mandatory curtailment of consumption, upon its retail customers, to the end that retail customers of Company, or the affected segment thereof, and retail customers of Customer will be treated alike; and Customer will cooperate fully in taking the same character of enforcement action as Company takes with respect to any such request or mandate.

#### ADJUSTMENTS

Nothing contained herein shall be construed as affecting in any way the right of Company, and Company shall at all times have the right, to unilaterally file with the Federal Energy Regulatory Commission, or other regulatory agency having jurisdiction, a change in rates, charges, classification or service, or any rule, regulation or contract relating thereto, under Section 205 of the Federal Power Act and pursuant to the Commission's Rules and Regulations promulgated thereunder, or under other applicable statutes and regulations.

#### NON-ASSIGNABILITY

No right or obligation of Customer hereunder is assignable in whole or in part or voluntarily or involuntarily, without the prior written consent of Company.

BC 00408

Issue Date: October 15, 1987

Effective Date: July 1, 1987

RULES, REGULATIONS, TERMS AND CONDITIONS  
Applicable to Wholesale For Retail Resale Electric Service

APPLICATION FOR SERVICE

Service will be rendered under Contract, in writing, signed by Customer and Company. The Contract shall become effective when approved or accepted by every regulatory agency having jurisdiction.

CUSTOMER'S INSTALLATION

All wiring and other electric equipment furnished by Customer will be maintained by Customer at all times in conformity with requirements of constituted authorities.

ACCESS TO PREMISES

Company will have the right of access to Customer's premises at all reasonable times for the purpose of installing, reading, inspecting or repairing any meters, devices and other equipment used in connection with Company's supply of electric service, or for the purpose of removing its property and for all other proper purposes.

METERING

The electricity used will be measured by a meter or meters to be furnished and installed by Company at its expense, and all bills will be calculated upon the registration of said meters.

Company, at its option, shall have the right to meter service on the low voltage side of Customer-owned substation, where delivery by Company is at the transmission voltage, and adjust the meter readings to reflect transformer losses. Customer shall provide suitable space for Company's metering equipment in substations owned by Customer.

PROTECTION OF COMPANY'S PROPERTY

Customer will be held responsible for tampering, interfer-

ing with, breaking of seals of meters, or other equipment of Company installed on Customer's premises, and will be held liable for same according to law. Customer hereby agrees that no one except employees of Company shall be allowed to make any internal or external adjustments of any meter or any other piece of apparatus which shall be the property of Company.

#### LIABILITY

Customer assumes all responsibility for the electric service upon Customer's premises at and from the point of delivery of electricity and for the wires and equipment used in connection therewith, and will protect and save Company harmless from all claims for injury or damage to persons or property occurring on Customer's premises or at and from the point of delivery of electricity, occasioned by such electricity or said wires and equipment, except where said injury or damage is shown to have been occasioned solely by the negligence of Company.

#### CONTINUOUS SERVICE

Company will not be responsible in damages for failure to supply electric service or for interruptions or reversal of the supply if such failure is without willful fault on its part.

#### PROTECTION OF SERVICE

Company cannot render service to any Customer for the operation of any device that has a detrimental effect upon the service rendered to other customers.

Company, however, will endeavor to cooperate with Customer when consulted concerning the intended use of any electric device, which may have such detrimental effect, proposed to be served from Customer's system.

Where Customer permits service from its system to intermittent loads or loads subject to violent fluctuations, Company reserves the right to require Customer to furnish, at its own expense, suitable equipment to reasonably limit such intermittence or fluctuation.

BC 00410

POWER FACTOR

Company installs facilities to supply power to Customer at or near unity power factor.

Company expects Customer's distribution system to be at or near unity power factor. However, Company will permit Customer's distribution system, during normal operation, to have a power factor not lower than 90% either lagging or leading.

Where Customer's power factor is less than 90%, Company reserves the right to require Customer to furnish, at its own expense, suitable corrective equipment to maintain a power factor of 90% or higher. At Company's option, in lieu of Customer's providing the above corrective equipment, Company may adjust the maximum measured load for billing purposes when power factor is less than 90%, in accordance with the following formula (BASED ON POWER FACTOR MEASURED AT TIME OF MAXIMUM LOAD):

$$\frac{\text{Maximum Measured KW Load} \times 90\%}{\text{Power Factor (in percent)}}$$

Company will not be required to measure power factor more often than once a year but will do so if there is a material or permanent change in Customer's load. However, Company reserves the right to install (1) a KVA meter and base the billing KW on the measured KVA times 90%, or (2) metering equipment of a type whereby power factor can be determined for use in the above formula.

The reference to "power factor" is in accordance with the accepted technical meaning of this term.

BILLING FOR SERVICE

(a) All bills will be based upon consecutive meter readings, as relates to kilowatt hours, made in accordance with Company's meter reading schedule, which readings shall be taken as nearly as may be practicable every 30 days.

(b) Failure to receive a bill in no way exempts Customer from the provisions of these RULES, REGULATIONS, TERMS AND CONDITIONS.

(c) When Company is unable to read a meter after reasonable effort, Customer will be billed at the average of the three immediately preceding monthly bills and the billing adjusted

BC 00411

when the meter is read.

(d) Fuel clause adjustments (+) are in addition to the minimum.

#### DISCONTINUANCE OF SERVICE

When bills for electric service are in arrears, or in case Customer fails to comply with these RULES, REGULATIONS, TERMS AND CONDITIONS, Company will have the right to discontinue all its electric service to Customer and to remove its property from Customer's premises upon mailing notice to address to which the monthly bills are sent. For Customers whose service has been so disconnected, there will be a charge equal to Company's actual costs of disconnecting and of any reconnecting of the service.

#### TRANSMISSION SERVICE

Customer, in order to earn the transmission service rate, must own and maintain or, at Company's option, lease all transformers and other facilities necessary to take service at the delivered transmission voltage.

#### INCREASES IN CUSTOMER'S REQUIREMENTS

Customer shall, on a continuing basis, forecast its requirements eight years in advance. Customer shall submit to Company Customer's forecast at least once every twelve months, the date by which Customer shall submit its forecast to be determined by mutual agreement.

Company shall plan and provide for forecasted increases in Customer's requirements, giving consideration to Company's and Customer's forecasts. Company shall submit to Customer at least once every twelve months the forecast Company uses to plan for Customer's requirements, the date by which Company shall submit its forecast to be determined by mutual agreement.

If Customer anticipates an increase in its requirements beyond that for which Company has planned, Customer shall notify Company as soon as possible. Company will provide for such an increase to the extent it is able to do so from its own resources or by purchasing power without impairing its ability to provide adequate service to other customers. As soon as practicable af-



ter receipt of such notice from Customer, Company will inform Customer whether Company is able to provide for the increased requirements and the rate at which it will do so. If Company is unable to provide for Customer's increased requirements, Company will do so as soon as it reasonably can without impairing its ability to provide adequate service to other customers. The rate for service shall be the rate specified in the Rate Schedule applicable when Company so informs Customer or in a superseding rate schedule properly filed with the Federal Energy Regulatory Commission.

#### CHANGE IN FACILITIES

When Customer's load grows to a point where Company or Customer facilities must be enlarged to provide an adequate and reliable supply of power and energy, Company reserves the right to require a new contract which shall provide for a new initial term, among other things.

#### AGENTS CANNOT MODIFY AGREEMENT

No agent has power to amend, modify, alter or waive any of these RULES, REGULATIONS, TERMS AND CONDITIONS, or to bind Company by making any promises or representations not contained herein.

#### NON-ASSIGNABILITY

No right or obligation of a wholesale for retail resale Customer of Company is assignable, in whole or in part or voluntarily or involuntarily, by Customer without the prior written consent of Company.

#### CURTAILMENT

In the event any occurrence, condition, or circumstance leads Company to request voluntary curtailment of consumption, or to impose mandatory curtailment of consumption, with respect to Company's own retail customers, or a segment thereof which would include the retail customers of Customer if Company supplied such retail customers directly, Customer will make the same request for voluntary curtailment of consumption, or impose the same mandatory curtailment of consumption, upon its retail customers, to the end that retail customers of Company,

BC 00413

**“Q” - Assignment of Wholesale Electric Agreement**

## ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT is entered into as of the last date set forth below, between BEREA COLLEGE, a Kentucky non-profit corporation, with its principal office located at Lincoln Hall, 101 Chestnut Street, Berea, Kentucky 40404 (the "Assignor") and the CITY OF BEREA, a Kentucky municipal corporation, with its principal office located at Berea City Hall, 212 Chestnut Street, Berea, Kentucky 40403 (the "Assignee") (collectively, the "Parties").

WHEREAS, the Parties have entered into a "Utility Asset Purchase Agreement," dated June 18, 2004;

WHEREAS, pursuant to said Utility Asset Purchase Agreement, Assignee has agreed to purchase, among other things, Assignor's electric distribution system and business and has agreed to own and operate and accept full responsibility for, among other things, the electric system utilizing the electric distribution system assets to be acquired from Assignor;

WHEREAS, pursuant to said Utility Asset Purchase Agreement, Assignee has further agreed that all electric customers currently served by Assignor shall become electric customers of Assignee from and after the Closing Date as specified in Section 19 of the Utility Asset Purchase Agreement ("Closing Date");

WHEREAS, Assignee, from and after the Closing Date, will continue to own and operate such electric distribution system and business previously owned and operated by Assignor;

WHEREAS, Assignor is a party to a wholesale electric purchase agreement entitled "Contract for Electric Service" with Kentucky Utilities Company, dated November 13, 1989, as amended or supplemented ("Electric Power Agreement"), pursuant to which Kentucky Utilities Company sells and delivers to Assignor, and Assignor receives and pays Kentucky Utilities Company for, Assignor's requirements of electricity for operation of its electric distribution system; and

WHEREAS, the Assignor desires to assign to Assignee and Assignee desires to accept assignment by Assignor of the Electric Power Agreement contemporaneously with the closing of the Utility Asset Purchase Agreement;

NOW, THEREFORE, in consideration of the mutual agreements contained in this Assignment Agreement, and intending to be legally bound, the Parties hereby agree as follows:

1. **ASSIGNMENT OF ELECTRIC POWER AGREEMENT.** Upon the terms contained herein, Assignor hereby assigns the Electric Power Agreement to Assignee, and Assignee hereby accepts assignment of the Electric Power Agreement by Assignor. Through this assignment, Assignor assigns to Assignee all of Assignor's interests, rights and entitlements under the Electric Power Agreement and delegates to Assignee all of Assignor's duties and obligations under the Electric Power Agreement.

Through Assignee's acceptance of this assignment, Assignee accepts and assumes all of Assignor's interests in the Electric Power Agreement; accepts, assumes and agrees to fully and faithfully perform all of Assignor's duties and obligations under the Electric Power Agreement; and agrees to be bound by all of the covenants, agreements, obligations, terms, provisions, and conditions of the Electric Power Agreement, as though the Electric Power Agreement had been originally executed by Assignee.

2. **INDEMNIFICATION.**

(a) From and after the Closing Date, Assignor shall indemnify and hold harmless Assignee, its elected officials, officers, employees, agents, consultants, advisors or other representatives, including legal counsel, accountants and financial advisors, and their successors and permitted assigns (collectively, the "Assignee Indemnitees") for and against any and all claims, losses, liabilities, causes of action, costs and expenses, including court costs and reasonable attorneys' fees and disbursements in connection therewith, actually incurred by an Assignee Indemnitee and resulting from any breach or default by Assignor (i) in the performance of its covenants, agreements, or obligations under this Assignment Agreement or (ii) in the performance prior to the Closing Date of its covenants, agreements, or obligations to Kentucky Utilities Company under the Electric Power Agreement.

(b) From and after the Closing Date, Assignee shall indemnify and hold harmless Assignor, its trustees, officers, employees, agents, consultants, advisors or other representatives, including legal counsel, accountants and financial advisors, and their successors and permitted assigns (collectively, the "Assignor Indemnitees") for and against any and all claims, losses, liabilities, causes of action, costs and expenses, including court costs and reasonable attorneys' fees and disbursements in connection therewith, actually incurred by an Assignor Indemnitee and resulting from any breach or default by Assignee (i) in the performance of its covenants, agreements, or obligations under this Assignment Agreement or (ii) in the performance from and after the Closing Date of its covenants, agreements, or obligations to Kentucky Utilities Company under the Electric Power Agreement as accepted and assumed by Assignee pursuant to this Assignment Agreement.

3. **EFFECTIVE DATE OF ASSIGNMENT.** This effective date of the assignment of the Electric Power Agreement pursuant to this Assignment Agreement shall be the Closing Date.

[THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Parties have caused this Assignment Agreement to be duly executed as of the date last set forth below.

“ASSIGNOR”

BEREA COLLEGE

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

“ASSIGNEE”

CITY OF BEREA

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

30335344.1

**“R” - Direct Testimony of Christopher Bowling**

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF THE JOINT APPLICATION )  
OF BEREA COLLEGE AND THE CITY OF BEREA )  
FOR AN ORDER AUTHORIZING THE TRANSFER )  
OF ASSETS PURSUANT TO KRS )  
278.020(5) AND (6) )**

**NO. 2004-00331**

**DIRECT TESTIMONY  
OF  
CHRISTOPHER BOWLING**

**ON BEHALF OF APPLICANTS**

Filed September 3, 2004

1 Q: Please state your name and your business address.

2 A: Christopher Bowling, 325 West Main Street, Suite 2-C, Lexington, Kentucky 40507.

3 Q: By whom are you employed?

4 A: J.J.B. Hilliard, W.L. Lyons, Inc.

5 Q: What are your job duties?

6 A: I serve as a Public Finance Banker. In that capacity, I work with municipalities and other  
7 governmental entities to address their financing needs, primarily through the issuance of  
8 municipal bonds.

9 Q: What is your educational background?

10 A: I attended Centre College where I obtained a degree in economics with a minor in  
11 mathematics in 1987. I then attended the University of Notre Dame where I obtained my  
12 Masters in Business Administration in 1989.

13 Q: Following the completion of your formal education, what work experience have you had?

14 A: I worked for the City of Atlanta from 1989 to 1990 as a budget analyst. From 1991 to  
15 1992, I worked as a financial analyst for the Kentucky Infrastructure Authority, and from  
16 1992 until the present, I have worked in the private sector focusing primarily on  
17 municipal finance issues.

18 Q: Are you familiar with the proposed acquisition of certain utility assets, and if so, how?



1 A: I am familiar with the transaction. I have had access to and have reviewed the reports  
2 prepared for City by Work & Greer, P.C. and by CDP Engineers. In addition, I have  
3 reviewed financial statements for the City of Berea and for the Berea Sewer Commission  
4 as part of our effort to ascertain if the combination of the electric and water systems from  
5 Berea College with the sewer system from the City of Berea would support the debt  
6 service required in the proposed transaction.

7 Q: Based upon that review, do you believe that the City of Berea is financially able to  
8 operate the electric and water system assets?

9 A: Yes. The City of Berea has operated the sewer system in Berea for forty three (43) years.  
10 During that period of time, the City has demonstrated a remarkable ability to efficiently  
11 operate the sewer system. The financial results of the sewer system speak for themselves.  
12 Over the long term, the Berea Sewer Commission has established cash reserves totaling  
13 \$8,075,507 and retained earnings totaling \$3,146,489. In the shorter term, the Sewer  
14 Commission has shown positive cash flows in each of the last three years. In Fiscal Year  
15 2001, the Commission produced a positive cash flow of \$603,119. In Fiscal Year 2002,  
16 the Commission produced a positive cash flow of \$310,691, and in Fiscal Year 2003, the  
17 Commission produced a positive cash flow of \$281,852. All in all, the City's financial  
18 performance as the owner and operator of the sewer system has been impressive.

19 Q: How do you account for the declining cash flows over the last three years?

20 A: The Sewer Commission is fortunate to have significant cash reserves. As I mentioned  
21 earlier, the cash reserves currently total \$8,075,507. As a result, a substantial portion of  
22 the Sewer Commission's income each year comes from interest received on those cash

1 reserves. The decline in income is attributable in large measure to a decline in interest  
2 rates over the July 2000 - June 2003 timeframe.

3 Q: Have you reviewed the Work & Greer, P.C. Compilation that is attached to the Joint  
4 Application of Berea College and the City of Berea?

5 A: Yes.

6 Q: Have you conducted any financial analysis independent of that which was performed by  
7 Work & Greer, P.C.?

8 A: Yes.

9 Q: What were the results of your own analysis?

10 A: My analysis is based more on historical performance of the combined utility system than  
11 on proforma results or projections. Focusing on just the historical performance is a  
12 somewhat more conservative approach, and even that approach strongly suggests that this  
13 combination is financially sound. For instance, attached to my testimony as Exhibit 1 is  
14 an analysis of the revenues available for debt service. During the last three years, the  
15 combined utility system had revenues ranging from a low of \$2,921,526 to a high of  
16 \$3,581,001. Even in the years with the lowest revenue available for debt service, the  
17 combined system could comfortably meet all of the debt service obligations which a bond  
18 issue would create.

19 Q: Have you analyzed the financial picture in comparison with other utility systems?

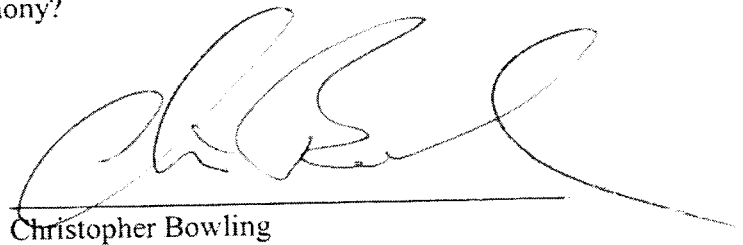
1 A: Yes. One can compare utilities' relative financial strength by dividing the cash available  
2 by the cash necessary to satisfy debt service obligations. The quotient resulting from  
3 such a comparison is often used to assess multiple utility systems.. In evaluating the  
4 Berea combined utility service in this fashion, we determine that on a proforma basis, the  
5 combined service has a quotient equal to 1.9 in for Fiscal Year 2004 and 1.98 for Fiscal  
6 Year 2005. These numbers compare favorably with other utilities in the region.

7 Q: Based upon your experience in working with municipal utilities, do you believe that the  
8 City of Berea is financially able to undertake the ownership and operation of the electric  
9 and water systems?

10 A: Yes. The City's financial performance, both as a municipality and as the operator of the  
11 sewer system, indicates that it has been operated in a fiscally prudent manner for many  
12 years, and there is no reason to believe that the addition of the electric and water system  
13 will do anything to change those circumstances.

14 Q: Does this conclude your direct testimony?

15 A: Yes.



Christopher Bowling

COMMONWEALTH OF KENTUCKY )

COUNTY OF FAYETTE )

Sworn to and subscribed before me by Christopher Bowling on this the 31st day of  
August, 2004.

  
NOTARY PUBLIC, STATE AT LARGE

My Commission Expires: 7/25/08

**“S” - Proposed Bond Ordinance**

## **GENERAL BOND ORDINANCE**

GENERAL BOND ORDINANCE OF THE CITY OF BEREA, KENTUCKY PROVIDING FOR THE ESTABLISHMENT OF RULES, REGULATIONS AND CONDITIONS FOR THE ISSUANCE FROM TIME TO TIME BY SAID CITY OF UTILITY SYSTEM REVENUE BONDS AND PROVIDING FOR THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF THE COMBINED AND CONSOLIDATED UTILITY SYSTEM.

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**2004 GENERAL BOND ORDINANCE  
AUTHORIZING THE ISSUANCE OF  
AND SECURING UTILITY SYSTEM REVENUE BONDS OF  
CITY OF BERA, KENTUCKY**

This GENERAL BOND ORDINANCE made and adopted as of the \_\_\_ day of \_\_\_, 2004, by CITY OF BERA, KENTUCKY (hereinafter sometimes referred to as the "City"), a municipal corporation and political subdivision of the Commonwealth of Kentucky, for the purpose of establishing the rules, regulations and conditions for the issuance from time to time by the City of its Utility System Revenue Bonds:

**W I T N E S S E T H:**

THAT WHEREAS, City of Berea, Kentucky (the "City"), pursuant to the provisions of Chapter 58 and Sections 96.350 to 96.510 of the Kentucky Revised Statutes, has the authority to plan, design, finance, construct, install, operate, replace and maintain water, electrical and sewer system facilities within the service area of the City; and

WHEREAS, the City has entered into a Utility Asset Purchase Agreement dated as of June 18, 2004 with Berea College, a Kentucky nonprofit corporation (the "Seller") relating to the purchase by the City of the Seller's waterworks and water distribution facilities and electrical distribution facilities which are used throughout the service area of the City for the supply of water and electricity; and

WHEREAS, the City currently owns and operates substantial sewer collection and treatment facilities which are used throughout the service area of the City for the supply of sewer service; and

WHEREAS, as a result of the foregoing, it is now necessary that the City adopt this General Bond Ordinance in order to secure the rights of those who may become holders of the Utility System Revenue Bonds, as hereinafter defined, and bond anticipation notes of the City issued hereunder and to make provision for: (a) the issuance of the City's Utility System Revenue Bonds and revenue bond anticipation notes, (b) providing for the security in respect of such bonds and notes, (c) protecting and enforcing the rights and remedies of the holders thereof, (d) the custody, safeguarding and application of the City's income and revenues derived from the System, as hereinafter defined, (e) the duties and responsibilities of Fiduciaries, as hereinafter defined, and (f) inter alia, all other necessary and desirable provisions with respect to said Utility System Revenue Bonds, including covenants of the City; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the Commonwealth of Kentucky and by the requirements of the City to happen, to exist, and to be performed precedent to and in the execution and delivery of this General Bond Ordinance have happened, have existed and have been performed as so required in order to make this General Bond Ordinance a valid and binding legal basis for the security of the Utility System Revenue Bonds hereinafter authorized and described, in accordance with its terms;

NOW, THEREFORE, THIS GENERAL BOND ORDINANCE WITNESSETH, that in consideration of the premises and of the purchase and acceptance of Utility System Revenue

Bonds by the holders thereof, and for the purpose of fixing and declaring the terms and conditions upon which Utility System Revenue Bonds of the City are to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become holders thereof, and in order to secure the payment of all the Utility System Revenue Bonds at any time issued and Outstanding hereunder and the interest thereon according to their tenor, purport and effect, and in order to secure the performance and observance of all the covenants, agreements and conditions therein and herein contained, the City has executed and delivered this General Bond Ordinance, and the City does hereby agree and covenant for the equal and proportionate benefit and security of all and singular the present and future holders of the Utility System Revenue Bonds issued under this General Bond Ordinance, without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter provided, of any one bond over any other bond by reason or priority in the issue, sale or negotiation thereof or otherwise, as follows:

**ARTICLE I**  
**SHORT TITLE, DEFINITIONS, CONSTRUCTION**

101. Short Title. This General Bond Ordinance may hereafter be cited by the City, the holders of the Bonds and any Fiduciaries, and is hereinafter sometimes referred to as the "2004 General Bond Ordinance", the "General Bond Ordinance" or the "Ordinance."

102. Definitions. Unless the context clearly indicates some other meaning, the following words and terms shall, for all purposes of the General Bond Ordinance, have the following meanings:

"Account or Accounts or Funds" - means one or more of the separate accounts for each Series of Bonds which are created and established pursuant to the Ordinance.

"Act" - means Chapter 58 and Sections 96.350 to 96.510, inclusive, of the Kentucky Revised Statutes.

"Agent Member" means a member of, or participant in, the Securities Depository.

"Aggregate Debt Service Reserve Requirement" - means the least of (i) the maximum Annual Debt Service Requirement in any succeeding Bond Fiscal Year or (ii) 125% of the average Annual Debt Service Requirement; provided that not more than 10% of the proceeds of any Series of Bonds shall be required to be deposited in the Debt Service Reserve and, if such amount is so deposited, the amount of such deposit plus the amount of all prior deposits required upon the issuance of Bonds shall constitute the Aggregate Debt Service Reserve Requirement until the earlier of (x) the date the next Series of Bonds is issued or (y) the date such amount equals the requirement set forth in clause (i) above.

"Annual Budget" - means the annual budget, as amended or supplemented, for a particular fiscal year adopted by the City under the General Bond Ordinance as provided in Section 711.

"Annual Debt Service Requirement" - means, at any given time of determination, the maximum amount of Principal Installments and interest coming due on all Bonds Outstanding in

any Bond Fiscal Year; provided, however, if the terms of any Bonds are such that interest thereon for any future period of time is to be calculated at a variable rate, then interest on such Bonds for such period shall be computed by assuming that the rate of interest applicable to such period is equal to the average rate of interest (calculated in the manner in which the rate of interest for such period is to be calculated) which would have been in effect for the 12 months immediately preceding the date of calculation.

"Authorized Newspapers" - means a newspaper of general circulation in the service area of the City which meets the requirements of a qualified newspaper as established by law, a daily newspaper of general circulation in Kentucky, and, where applicable, a newspaper or financial journal printed in the English language, customarily published and circulated, for at least five days (other than legal holidays) in each calendar week, in the Borough of Manhattan, City and State of New York, or as otherwise provided by Kentucky law.

"Authorized Officer" - means the Mayor and City Clerk of the City, and any other of its officers, agents or employees duly authorized by resolution of the City to perform the act or sign the document in question.

"Board" - means and refers to the City Council of the City, which is vested and empowered with the management, control and operation of the activities and affairs of the City.

"Bond or Bonds" - means any Utility System Revenue Bond or Bonds, or the issue of Bonds, as the case may be, authenticated and delivered under the General Bond Ordinance and authorized and issued pursuant to a Series Ordinance.

"Bond Proceeds Fund" - means the Fund so designated which is established and created by Section 502.

"Bond Fiscal Year" - means each annual period which begins on \_\_\_\_\_ 1 in any year and ends on \_\_\_\_\_ 31 in the following calendar year.

"Bondholder," or "Holder," or "Holder of Bonds" or any similar term (when used with reference to Bonds) - means the person in whose name a Bond is registered.

"Book-Entry Form" means, with respect to any Bonds, a form or system, as applicable, under which (i) the ownership of beneficial interests in the Bonds and bond service charges may be transferred only through a book entry, and (ii) physical Bond certificates in fully registered form are registered only in the name of a Securities Depository or its nominee as owner, with the physical Bond certificates in the custody of a Securities Depository.

"Certificate" - means a document signed by an Authorized Officer attesting to or acknowledging the circumstances or other matters therein stated.

"Construction" - means and shall include, inter alia, (a) preliminary planning to determine the economic and engineering feasibility of facilities constituting a part of the City's System, now or in the future, the engineering, architectural, legal, fiscal and marketing costs in respect thereto, economic investigations and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures and other actions necessary to the construction of

facilities for the System; (b) the erection, building, acquisition, alteration, remodeling, improvement or extension of System facilities; and (c) the inspection and supervision of the construction of System facilities, and all costs incidental to the acquisition and financing of same; and such term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, System facilities.

"Construction and Acquisition Account" - means, for each Series of Bonds which has one, the account created by Section 502.

"Consulting Engineer of National Recognition" - means and refers to an Engineer or a firm of Engineers, who, by virtue of experience, reputation and ability, bear a reputation in the field of water, electric and sewer system engineering, which is nationally recognized and known, and upon whose professional judgment sophisticated investors rely in connection with securities which are issued for utility purposes.

"Costs of Issuance" - means only the costs of issuing a Series of Bonds as designated by the City; including, but not being limited to, the fees and charges of the financial advisors or underwriters, bond counsel, trustee, rating agencies, bond and official statement printers credit enhancement charges, and such other fees and expenses normally attendant to an issue of Bonds.

"Costs of Issuance Account" - means, for each Series, the respective Account so designated which is established and created pursuant to Section 502.

"Counsel's Opinion" - means an opinion, including supplemental opinions thereto, signed by such attorney or firm of attorneys of recognized national standing in the field of law relating to municipal bonds and municipal finance as may be selected by the City.

"Debt Service Fund" - means the Fund so designated which is established and created by Section 502.

"Debt Service Reserve" - means the reserve for payment of principal of, interest on, and redemption requirements in respect of the Bonds, created by Section 502.

"Defeasance Obligations" means:

(a) direct obligations of (including obligations issued or held in book entry form) the United States of America; and

(b) pre-funded municipal obligations defined as follows:

Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (1) which are rated, based on the escrow, in the highest rating category of Standard & Poor's Rating Services, a division of The McGraw Hill Companies, Inc. and Moody's Investors Service, Inc. or any successors thereto; or (2) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or obligations described in

paragraph (a) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate.

"Depreciation Reserve Requirement" - means an amount as shall be determined by the Engineers and set forth in a Series Ordinance to be necessary as a reserve for major repairs or replacements of the System, which amount shall be deposited in the Depreciation Fund.

"Depreciation Fund" - means the Fund created by Section 502.

"City" - means City of Berea, Kentucky, a municipal corporation and political subdivision of the Commonwealth of Kentucky.

"Engineer" or "Engineers" - means any firm or firms of consulting engineers who have been or who will be in the future retained by the City for the purpose of preparing plans and specifications for present or future portions of the System.

"Fiduciary" or "Fiduciaries" - means any Paying Agent, any Registrar, and the depositories of all City funds, or any or all of them, as may be appropriate.

"Fiscal Year" - means the period commencing on July 1 of any year and ending on June 30 of the succeeding calendar year, or such other period as shall be determined to be the fiscal year for the City in accordance with the laws of the Commonwealth of Kentucky.

"Interest Payment Date" - means, for each Series, the date upon which interest on the Bonds of such Series shall be payable pursuant to Section 302.

"Investment Obligations" - means and includes any of the following;

(a) obligations of the United States and of its agencies and instrumentalities, including obligations subject to repurchase agreements, provided that delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian and may be accomplished through repurchase agreements reached with sources including, but not limited to, national or state banks chartered in the Commonwealth of Kentucky;

(b) obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

- (i) United States Treasury;
- (ii) Export-Import Bank of the United States;
- (iii) Farmers Home Administration;
- (iv) Government National Mortgage Corporation; and
- (v) Merchant Marine bonds;

(c) obligations of any corporation of the United States government, including but not limited to:

- (i) Federal Home Loan Mortgage Corporation;
- (ii) Federal Farm Credit Banks;
- (iii) Bank for Cooperatives;
- (iv) Federal Intermediate Credit Banks;
- (v) Federal Land Banks;
- (vi) Federal Home Loan Banks;
- (vii) Federal National Mortgage Association; and
- (viii) Tennessee Valley Authority;

(d) certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation or similar entity or which are collateralized, to the extent uninsured, by the following:

(i) bonds, notes, or other obligations of or guaranteed by the United States, or those for which the credit of the United States is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures or any other obligations or securities issued or guaranteed by any federal governmental agency, presently or in the future established by an Act of Congress, as amended or supplemented from time to time;

(ii) obligations of the Commonwealth of Kentucky including revenue bonds issued by its statutory authorities, commissions or agencies;

(iii) revenue bonds issued by educational institutions of the Commonwealth of Kentucky as authorized by KRS 162.340 to 162.380;

(iv) obligations of any city of the first, second, and third classes of the Commonwealth of Kentucky, or any county for the payment of principal and interest on which the full faith and credit of the issuing body is pledged;

(v) school improvement bonds issued in accordance with the authority granted under KRS 162.080 to 162.100; or

(vi) school building revenue bonds issued in accordance with the authority granted under KRS 162.120 to 162.300, provided that the issuance of such bonds is approved by the state board for elementary and secondary education; and

(e) shares of mutual funds, each of which shall have the following characteristics:

(i) the mutual fund shall be an open-end diversified investment company registered under the Federal Investment Company Act of 1940, as amended;

(ii) the management company of the investment company shall have been in operation for at least five (5) years; and

(iii) all of the securities in the mutual fund shall be investments described in (a) - (d) above.

All funds and accounts are to be marked to market valuation conducted on a quarterly basis by the Fiduciary.

"Issue Date" - means, with respect to Bonds of a particular Series, the date of the Bonds of such Series specified and determined by the Series Ordinance authorizing such Bonds.

"KIA" means the Kentucky Infrastructure Authority, an agency of the Commonwealth of Kentucky.

"KRS" - means and refers to the Kentucky Revised Statutes.

"2004 General Bond Ordinance" or "General Bond Ordinance" - means this General Bond Ordinance of the City adopted \_\_\_\_\_, 2004.

"Notes" - means any obligations issued or to be issued by the City pursuant to the Act to provide funds for any lawful City purposes authorized by the Act in anticipation of the issuance of Bonds.

"Operation and Maintenance Costs" - means, as of any particular date, the City's operating and maintenance expenses of carrying out and administering the System, and in that regard operating and maintaining the System, and shall include, without limiting the generality of the foregoing, salaries, supplies, utilities, mailing, labor, materials, office rent, maintenance, upkeep, furnishings, equipment, repair of facilities, insurance premiums, legal, accounting, management, consulting and banking services and expenses, the fees and expenses of any regulatory agency having jurisdiction of the City and all other items normally considered operation and maintenance costs under generally accepted accounting principles, but shall exclude allowances for depreciation and deposits to the Depreciation Fund.

"Operation and Maintenance Fund" - means the Fund so designated which is established and created by Section 502.

"Outstanding" - when used with reference to Bonds, means, as of any date, all Bonds theretofore or then being authenticated and delivered under the General Bond Ordinance, except:

(a) Any Bonds cancelled pursuant to the General Bond Ordinance at or prior to such date;

(b) Bonds (or portions of Bonds) for the payment or redemption of which there shall be held in trust under the General Bond Ordinance (whether at or prior to maturity or Redemption Date) (i) cash, equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or Redemption Date, or (ii) Investment Obligations as defined in clause (a) of the definition of Investment Obligations in such



principal amounts, having such maturities and bearing such interest, which, together with cash, if any, shall be sufficient to pay when due, the principal amount or Redemption Price, as the case may be, with interest to the date of maturity or Redemption Date; provided that if such Bonds are to be redeemed, notice of such redemption shall have been given as in the General Bond Ordinance provided or satisfactory provisions for the giving of such notice shall have been made;

(c) Bonds in lieu of or in substitution for which other Bonds have been authenticated and delivered pursuant to the General Bond Ordinance; and

(d) Bonds deemed to have been paid as provided in Section 1201.

"Paying Agent" - means any bank or trust company designated, and its successor or successors hereafter appointed, as paying agent for the Bonds of any Series in the manner provided in the General Bond Ordinance.

"Person" - means any individual, firm, partnership, association, joint venture, corporation or governmental agency, either State or Federal.

"Pledged Receipts"

(a) means the totality of the Revenues;

(b) shall not mean any State appropriations or Federal Grants specified for use by the City for capital construction purposes in connection with the City's System; and

(c) shall also include all interest earned and gains realized on Investment Obligations unless the General Bond Ordinance specifically requires such interest earned or gains realized to remain in a particular Fund or Account; provided that, any interest or gains on funds held in (i) escrow by a trustee for the payment of previously outstanding bonds or (ii) in a fund in order to rebate such amounts to the United States Treasury in order to comply with requirements of the Internal Revenue Code of 1986, as amended, shall not be included.

"Principal Installment" - for any Bond Fiscal Year means, as of any date of calculation and with respect to any Series so long as any Bonds thereof are Outstanding:

(a) the principal amount of the Outstanding Bonds of said Series which mature in such Bond Fiscal Year, reduced by the aggregate principal amount of such Bonds which would before such Bond Fiscal Year be retired by reason of the payment when due and application in accordance with the General Bond Ordinance of Sinking Fund Installments payable before such Bond Fiscal Year for the retirement of such Bonds; plus

(b) the unsatisfied balance of the Sinking Fund Installment, if any, due during such Bond Fiscal Year for the Bonds of such Series.

"Principal Installment Date" - means, for such Series, the date upon which each Principal Installment on the Bonds of such Series shall be payable pursuant to Section 303.

"Redemption Date" - means any date on which Bonds are to be redeemed.

"Redemption Price" - means, with respect to any Bonds, the principal amount thereof plus the applicable premium, if any, payable upon redemption thereof pursuant to the General Bond Ordinance and the Series Ordinance pursuant to which the same was issued.

"Refunding Bonds" - means all Bonds, whether issued in one or more Series, authenticated and delivered on original issuance pursuant to Section 207 and thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the General Bond Ordinance.

"Registrar" - means any bank or trust company and its successor or successors, acting as registrar for the Bonds of any Series pursuant to the Series Ordinance for said Bonds.

"Registrar and Paying Agent Agreement" - means any registrar and paying agent agreement between the City and a bank or trust company that may be authorized by any Series Ordinance.

"Revenue Fund" - means the Revenue Fund created by Section 502.

"Revenues" - means the totality of all water, electric and sewer service rates, rentals and charges of any and all types and varieties imposed, enforced and collected by the City for any water, electric or sewer services rendered by the System of the City, together with other income received by the City, if any, from any agency of government, both federal and state, as representing income or operating subsidies, as distinguished from capital grants, to the extent not otherwise required to be treated and applied and specifically excluding therefrom any funds received which result from assessments or assessment charges.

"Securities Depository" means any securities depository that is a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act, operating and maintaining, with its participants or otherwise, a Book-Entry System to record ownership of beneficial interests in bonds and bond service charges, and to effect transfers of bonds in Book-Entry Form, and means, initially, The Depository Trust Company (a limited purpose trust company), New York, New York.

"Securities Depository Nominee" means any nominee of a Securities Depository and initially means Cede & Co., New York, New York, as nominee of The Depository Trust Company.

"Serial Bonds and Term Bonds" - means such portion of the Bonds designated as Serial Bonds and Term Bonds in a Series Ordinance.

"Series Bonds" - means all of the Bonds authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to this General Bond Ordinance, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

"Series Ordinance" - means an ordinance of the City authorizing the issuance of a Series of Bonds in accordance with the terms and provisions hereof, adopted by the City in accordance with Section 204.

"Sinking Fund Installment" - for any Bond Fiscal Year, means as of any date of calculation, and with respect to the Outstanding Bonds of any Series, the amount of money required by a Series Ordinance to be paid as regular installments of principal for such Bonds by redemption, but does not include any amount payable by the City by reason only of the maturity of a Bond, and said future date is deemed to be the date when such Sinking Fund Installment is payable and the date of such Sinking Fund Installment, and said Outstanding Bonds are deemed to be the Bonds entitled to such Sinking Fund Installment.

"Subordinated Debt" means indebtedness of the System issued pursuant to Section 316 hereof which is subordinate to Bonds authorized to be issued under Section 314 hereof, including loans from KIA to the City evidenced by an assistance agreement.

"Surplus Fund" - means the Account so designated which is established by Section 502 hereof.

"Supplemental Ordinance" - means any ordinance supplemental to or amendatory of this General Bond Ordinance adopted by the City in accordance with Article VIII and Article IX hereof.

"System" - means (a) the existing sewer collection and treatment facilities of the City, (b) the water production, treatment and distribution facilities and the electric distribution facilities to be purchased by the City, which purchase will be funded by the proceeds of Bonds, and (c) all future additions and extensions such sewer, water and electric facilities.

103. Construction Of General Bond Ordinance. In this General Bond Ordinance, unless the context otherwise requires:

Articles and Sections referred to by number means the corresponding Articles and Sections of this General Bond Ordinance.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, joint ventures, corporations, or other legal entities including public bodies, as well as natural persons.

The terms "hereby," "hereof," "hereto," "herein," "hereunder," and any similar terms, as used in this General Bond Ordinance, refer to this General Bond Ordinance or Sections or subsections of this General Bond Ordinance and the term "hereafter" means after the date of adoption of this General Bond Ordinance.

[End of Article I]

**ARTICLE II**  
**AUTHORIZATION AND ISSUANCE OF BONDS**

201. Authorization For General Bond Ordinance. This General Bond Ordinance is adopted pursuant to the Act.

202. General Bond Ordinance To Constitute Contract. In consideration of the purchase and acceptance of the Bonds by those who shall purchase and hold the same from time to time, the provisions of the General Bond Ordinance shall be a part of the contract of the City with the Holders of the Bonds and shall be deemed to be and constitute a contract between the City and the Holders from time to time of the Bonds and such provisions are covenants and agreements with such Holders which the City hereby determines to be necessary and desirable for the security and payment thereof. The provisions, covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal and ratable benefit, protection and security of the Holders of any and all of the Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided in the General Bond Ordinance.

203. Authorization of Bonds. In order to provide sufficient funds for the System of the City, Bonds of the City, each to be entitled "Utility System Revenue Bond, Series \_\_\_\_" are hereby authorized to be issued from time to time without limitation as to amount except as provided by the rules, conditions and limitations set out with specificity in the General Bond Ordinance, and as may be limited by the Act, and such Bonds shall be issued from time to time subject to the terms, conditions and limitations established in the General Bond Ordinance and in one or more Series as hereinafter provided. All Bonds shall rank on a basis of parity and equality with one another as to security and source of payment (except if expressly issued as Subordinate Debt pursuant to Section 316 hereof), and all Bonds shall be entitled to the benefit of the continuing pledges and liens created by the General Bond Ordinance to secure the full and final payment of the principal of or Redemption Price, if any, and interest on the Bonds and any Sinking Fund Installments for the retirement thereof. Subject to any agreements hereafter made with the holders of any other notes or bonds of the City pledging any particular revenues or assets not pledged under the General Bond Ordinance, if any, the Bonds shall be special obligations of the City, payable only from income, revenues and funds specifically pledged by the City for the payment of the principal of or Redemption Price, if any, and interest on said Bonds, including the Pledged Receipts. The Bonds shall contain on their face a statement that the City is not obligated to pay the principal thereof or the interest thereon except solely from the income and revenues pledged for their payment and that the Bonds do not constitute indebtedness of the City within the meaning of the Constitution of Kentucky.

204. Authorization For Bonds In Series. From time to time when authorized by the General Bond Ordinance and subject to the terms, limitations and conditions established in the General Bond Ordinance, the City may authorize the issuance of a Series of Bonds upon adoption of a Series Ordinance, and the Bonds of any such Series may be issued and delivered upon compliance with the provisions of Article II and Article VIII. The Bonds of each Series shall bear the title "Utility System Revenue Bonds," and, at the option of the City, such other designation as may be necessary to distinguish them from the Bonds of other Series. Bonds of any Series may be authorized to be issued in the form of Serial Bonds or Term Bonds, or both.

The first Series of Bonds issued pursuant to the Ordinance shall effect the refunding of all then outstanding obligations of the City secured by the Revenues, in order to effectuate the unencumbered pledge of the Pledged Receipts thereafter to the purposes of the System.

Each Series Ordinance authorizing the issuance of a Series of Bonds shall, unless such Bonds are issued solely for the purpose of refunding Outstanding Bonds, describe in general terms the Construction of System facilities for which Bonds are being authorized, and shall include a determination by the City to the effect that the principal amount of said Series of Bonds is necessary to provide sufficient funds to be used and expended for the System. Each Series Ordinance shall specify and determine:

- (1) the authorized principal amount of said Series of Bonds;
- (2) the purposes for which each Series of Bonds are being issued, which shall be to provide funds for the purposes authorized by the Act, and in furtherance of the System, including, inter alia, one or more of the following:
  - (a) for deposit in the Cost of Issuance Account, any Construction and Acquisition Account and any Refunding Account established for such Series in the Bond Proceeds Fund for purposes for which such Accounts may be used, all as provided in Section 503;
  - (b) for the redemption of Bonds and related purposes as provided in and under the conditions and subject to the provisions and limitations of Section 207, if applicable;
  - (c) for deposit in the Operation and Maintenance Fund, Debt Service Fund or Debt Service Reserve; and
  - (d) for payment of the principal of or Redemption Price, if any, and interest on any Notes, and in such event, the Series Ordinance shall provide for the establishment of a special account into which the proceeds of sale of such Series Bonds in whole or in part shall be deposited in trust for such payments.
- (3) the title and designation of, the manner of numbering and lettering, and the denomination or denominations of the Bonds of such Series;
- (4) the date or dates of maturity and the amounts thereof and the Issue Date of the Bonds of such Series;
- (5) the interest rate or rates or the manner of determining such rate or rates of the Bonds of such Series and the interest payment dates of such Bonds;
- (6) the Redemption Price or Redemption Prices and the Redemption Date or Redemption Dates and other terms of redemption (if any) of any of the Bonds of such Series;

(7) the Paying Agent or Paying Agents and the Registrar or Registrars appointed by such Series Ordinance for such Bonds, subject to Section 1102, and the authorization of an agreement or agreements therewith;

(8) the portion of such series that are Serial Bonds and that are Term Bonds, if any, including the amount and date of such Sinking Fund Installment, if any, required by such Series Ordinance to be paid in any event by the City for the retirement of any of such Bonds of like maturity and interest rate, expressed as an amount payable on a Principal Installment Date of such Bonds sufficient to redeem at the Redemption Price thereof applicable on said date a specified principal amount thereof;

(9) the manner in which Bonds of such Series are to be sold and provisions for the sale thereof; and

(10) any other provisions deemed advisable by the City, not in conflict with or in substitution for the provisions of the General Bond Ordinance;

provided that, any of the provisions set forth above for inclusion in a Series Ordinance may, alternatively, be included in a resolution of the City adopted to accept a bid for Bonds if adoption by resolution is determined by the City to be necessary in order to permit the sale of such bonds in a timely or convenient manner.

205. Issuance and Delivery of Bonds. After their authorization by a Series Ordinance, Bonds of a Series may be executed by or on behalf of the City, and upon compliance by the City with the special requirements, if any, set forth in such Series Ordinance and with the requirements of Section 206, such Bonds shall thereupon be issued to or upon the order of the City.

206. Conditions Precedent to Authentication and Delivery of Bonds. Except as permitted by Sections 311 and 312, the Bonds authorized to be issued pursuant to this General Bond Ordinance and a Series Ordinance shall be issued only upon condition that the following have been executed:

(1) A copy of the General Bond Ordinance and the applicable Series Ordinance, each certified by an Authorized Officer of the City;

(2) The written order of the City as to the delivery of such Bonds signed by an Authorized Officer describing such Bonds to be authenticated and delivered, designating the purchaser or purchasers to whom such Bonds are to be delivered, and stating the purchase price of such Bonds;

(3) A Counsel's Opinion stating that in the opinion of such Counsel the General Bond Ordinance and the applicable Series Ordinance authorizing the Series of Bonds have been duly and lawfully adopted by the City, that the General Bond Ordinance and the applicable Series Ordinance are in full force and effect and are valid and binding upon the City and enforceable in accordance with their terms; that the General Bond Ordinance creates the valid pledge which it purports to create subject only to the provisions of the General Bond Ordinance permitting the application of the Pledged Receipts for or to the

purposes and on the terms and conditions set forth in the General Bond Ordinance; and upon the execution, authentication and delivery thereof, that the Bonds of such Series will be duly and validly issued and will constitute valid and binding obligations of the City entitled to the benefits of the General Bond Ordinance and such applicable Series Ordinance;

(4) A written order of the City signed by an Authorized Officer directing the deposit in the Debt Service Reserve of so much of the proceeds of the Bonds to be issued, upon their issuance, sale and delivery, as may be required to increase the aggregate amount then held in said Fund to the Aggregate Debt Service Reserve Requirement; provided that the City may obtain, in lieu of such deposit, a Debt Service Reserve Guaranty as permitted under Section 506 hereof;

(5) Except in the case of an issue of Refunding Bonds, a certificate of an Authorized Officer of the City stating that the City is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in the General Bond Ordinance;

(6) Such further documents, as are required by the provisions of this Section, Section 207, or Article VII or VIII or any Supplemental Ordinance adopted pursuant to Article VIII; and

(7) As a further condition, such moneys and securities as are required by the provisions of this Section, Section 207, or Article VII or VIII or any Supplemental Ordinance adopted pursuant to Article VIII.

207. Provision For Refunding Issue. (1) One or more Series of Refunding Bonds may be authenticated and delivered upon original issuance to refund all Outstanding Bonds or any Series of Outstanding Bonds or any part of one or more Series of Outstanding Bonds. Bonds of the Series of Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefore, to accomplish such refunding and to make such deposits required by the provisions of the Act, this Section and of the Series Ordinance authorizing said Series of Refunding Bonds.

(2) The Bonds of the Series of Refunding Bonds may be authenticated and delivered only upon receipt by the appropriate Fiduciary or Fiduciaries (in addition to the receipt by it or them of the documents required by Section 206) of:

(a) Irrevocable instructions to the Paying Agent and to the Registrar in respect of the Bonds to be Refunded, satisfactory to each of them, to give due notice of redemption of all the Bonds to be refunded on the Redemption Date specified in such instructions;

(b) Irrevocable instructions to the Paying Agent and to the Registrar in respect of the Bonds to be Refunded, satisfactory to each of them, to give due notice provided for in Section 1201 to the Holders of Outstanding Bonds being refunded;

(c) Either:

(i) moneys in an amount sufficient to effect payment at the applicable Redemption Price of the Bonds to be Refunded, together with accrued interest on such Bonds to the Redemption Date, which moneys shall be held by any one or more of the Paying Agents in a separate account irrevocably in trust for and assigned to the respective Holders of Outstanding Bonds being refunded, or

(ii) Defeasance Obligations in such principal amounts, having such maturities, bearing such interest, and otherwise having such terms and qualifications, as shall be necessary to comply with the provisions of subsection (2) of Section 1201 and any moneys required pursuant to said subsection (with respect to all Outstanding Bonds or any part of one or more Series of Outstanding Bonds being refunded) which Defeasance Obligations and moneys shall be held in trust and used only as provided in said subsection; and

(d) A Certificate of an Authorized Officer containing such additional statements as may be reasonably necessary to show compliance with the requirements of this subsection, and the Paying Agent shall be entitled to rely on such Certificate.

(3) The appropriate Paying Agent in respect of the Bonds to be refunded shall furnish to the City at the time of delivery of the Series of Refunding Bonds a certificate stating that it holds in trust the moneys and/or Investment Obligations required to effect such redemption on the date specified in such Series Ordinance.

(4) Any balance of the proceeds of the Bonds of each such Series shall be deposited in such Funds or Accounts as shall be specified in the Series Ordinance authorizing such Series of Refunding Bonds.

(5) Any moneys received by the City from any source, which receipt is conditioned upon the City using such moneys for the redemption of any Outstanding Bonds shall be deemed to be and treated as the proceeds of a Series of Refunding Bonds and the City shall deliver to the Paying Agent and Registrar the documents and moneys or obligations required by the provisions of clauses (a), (b) and (c) of subsection (2) hereof and shall do all other acts and things necessary to accomplish the redemption of such Bonds, in accordance with applicable provisions of this Section.

[End of Article II]



**ARTICLE III  
GENERAL TERMS AND PROVISIONS OF BONDS**

301. Date of Bonds. Each Bond shall be dated as of, and bear interest from, its Issue Date except as otherwise provided in Section 304.

302. Interest Payment Dates. Interest on each Bond shall be payable as provided in the Series Ordinance authorizing such Bonds.

303. Principal Installment Dates. The date when each Principal Installment with respect to a Series of Bonds is payable shall be as provided in the Series Ordinance authorizing such Bonds.

304. Medium of Payment; Form and Date. The Bonds shall be payable, with respect to principal or Redemption Price, if any, and interest, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest on the Bonds shall be payable by check or draft mailed to the Holders by first class mail on the applicable interest payment date. The Bonds of each Series shall be issued in the form of fully registered Bonds without coupons.

Bonds of each Series shall be dated as of the date specified in the Series Ordinance authorizing the issuance thereof. Bonds of such Series issued prior to the first interest payment date thereof shall be dated as of the date specified in the Series Ordinance authorizing the issuance thereof. Bonds issued on or subsequent to the first interest payment date shall be dated as of the date six months preceding the interest payment date next following the date of delivery thereof, unless such date of delivery shall be an interest payment date, in which case they shall be dated as of such date of delivery; provided, however, that if, as shown by the records of the Paying Agent, interest on the Bonds of any Series shall be in default, the Bonds of such Series issued in lieu of Bonds surrendered for transfer or exchange may be dated as of the date to which interest has been paid in full on the Bonds surrendered. Bonds of each Series shall bear interest from their date.

305. Legends. The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Ordinance as may be necessary or desirable to comply with custom, or otherwise, as may be determined by the City prior to the delivery thereof.

306. Execution. The Bonds shall be executed in the name and on behalf of the City by the manual or facsimile signature of the Mayor or the Board of Commissioners of the City and attested by the manual or facsimile signature of the City Clerk. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officers before the Bonds so signed and sealed shall have been actually delivered, such Bonds may, nevertheless, be delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed and sealed on behalf of the City by such persons as at the actual time of the execution of such Bond shall be duly authorized or hold the proper office in the City, although at the date of the Bonds of such Series such persons may not have been so authorized or have held such office.

307. Negotiability and Registration. All the Bonds issued under this General Bond Ordinance shall be negotiable as provided by the Act, subject to the provisions for registration and transfer contained in this General Bond Ordinance and in the Bonds. So long as any of the Bonds shall remain Outstanding, the Registrar shall maintain and keep books for the registration and transfer of Bonds; and, upon presentation thereof for such purpose to the Registrar, the Registrar shall register or cause to be registered therein, and permit to be transferred thereon any Bond entitled to registration or transfer under such reasonable regulations as it or the City may prescribe.

308. Transfer of Bonds. Each Bond shall be transferable only upon the books of the Registrar, which shall be kept for the purpose at the principal office of the Registrar, at the request of the Holder thereof or by his authorized attorney upon surrender thereof together with an assignment satisfactory to the appropriate Registrar duly executed by the Holder or his duly authorized attorney. Upon the transfer of any such Bond, the City shall issue in the name of the transferee a new Bond or Bonds of the same aggregate principal amount and Series and maturity as the surrendered Bond.

The City and any Fiduciary may deem and treat the person in whose name any Outstanding Bond shall be registered upon the books of the City as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price, if any, of and interest on, such Bond and for all other purposes, and all such payments so made to any such Holder or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City nor any Fiduciary shall be affected by any notice to the contrary. The City agrees to indemnify and save any Fiduciary harmless from and against any and all loss, cost, charge, expense, judgment or liability incurred by it, acting in good faith and without negligence hereunder, in so treating such Holder.

309. Regulations With Respect to Exchanges and Transfers. In all cases in which the privilege of transferring Bonds is exercised, the City shall execute and deliver Bonds in accordance with the provisions of the General Bond Ordinance. All Bonds surrendered in any such transfers shall forthwith be cancelled. The Registrar shall not be obligated to make any such transfer of Bonds of any Series during the fifteen days next preceding an Interest Payment Date on the Bonds of such Series or, in the case of any proposed redemption of Bonds of such Series, next preceding the date for providing notice of such redemption.

310. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the City shall execute and deliver a new Bond of like Series, maturity and principal amount as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond, or in lieu of and in substitution for the Bond, destroyed, stolen or lost, upon filing with the Registrar evidence satisfactory to the Registrar that such Bond has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Registrar and the City with indemnity satisfactory to each of them and complying with such other reasonable regulations as the Registrar and the City may prescribe and paying such expenses as the Registrar and the City may incur in connection therewith. All Bonds and so surrendered to the Registrar shall be cancelled by it.

311. Preparation of Definitive Bonds; Temporary Bonds. The definitive Bonds of each Series shall be lithographed or printed on steel engraved borders. Until the definitive Bonds of any Series are prepared, the City may execute, in the same manner as is provided in Section 306, and deliver, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds, one or more temporary Bonds (which may be registrable as to principal and interest), substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in denominations of \$5,000 or any multiple thereof authorized by the City, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The City at its own expense shall prepare and execute and, upon the surrender of such temporary Bonds for exchange and the cancellation, without charge to the Holder thereof, deliver in exchange therefore, at the principal office of the appropriate Registrar, definitive Bonds, of the same aggregate principal amount and series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds issued pursuant to this Ordinance.

All temporary Bonds surrendered in exchange for a definitive Bond or Bonds shall be forthwith cancelled.

312. Form of Bonds. As may be designated in a Series Ordinance, the Bonds may be registered in the name of the Securities Depository or the Securities Depository Nominee, and ownership thereof may be maintained in Book-Entry Form by the Securities Depository for the account of the Agent Members of the Securities Depository. Initially, the Bonds may be registered in the name of Cede & Co., as the nominee of The Depository Trust Company. Except as provided in paragraph (c) below, the Bonds may be transferred, in whole but not in part, only to the Securities Depository or the Securities Depository Nominee, or to a successor Securities Depository selected or approved by the Board or to a nominee of such successor Securities Depository. As to any Bond, the person in whose name such Bond shall be registered shall be the absolute owner thereof for all purposes, and payment of or on account of the principal of and premium, if any, and interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative.

For any Bonds issued in Book-Entry Form, neither the Board, the Registrar or the Paying Agent shall have any responsibility or obligation with respect to (i) the accuracy of the records of the Securities Depository or any Agent Member with respect to any beneficial ownership interest in the Bonds; (ii) the delivery to any Agent Member, any beneficial owner of the Bonds or any other person, other than the Securities Depository, of any notice with respect to the Bonds or the Bond Resolution; or (iii) the payment to any Agent Member, any beneficial owner of the Bonds or any other person, other than the Securities Depository, of any amount with respect to the principal of, premium, if any, or interest on the Bonds.

For any Bonds are registered in Book-Entry Form, the Board, the Registrar and the Paying Agent may treat the Securities Depository as, and deem the Securities Depository to be, the absolute owner of such Bonds for all purposes whatsoever, including without limitation:

- (1) the payment of principal of, premium, if any, and interest on the Bonds;
- (2) giving notices of redemption and other matters with respect to the Bonds;

- (3) registering transfers with respect to the Bonds;
- (4) the selection of Bonds for redemption;
- (5) for purposes of obtaining consents under the Bond Resolution; and
- (6) notwithstanding the definition of the terms "bondholder" or "holder" or "owner" in the Bond Resolution as referencing the registered owners of the Bonds, the Trustee shall be entitled to rely upon written instructions from a majority of the beneficial owners of the Bonds with reference to consent, if any, required from the owners of the Bonds pursuant to the terms of this Bond Resolution.

If at any time the Securities Depository notifies the Board that it is unwilling or unable to continue as Securities Depository with respect to any Bonds, or if at any time the Securities Depository shall no longer be registered or in good standing under the Securities Exchange Act or other applicable statute or regulation and a successor Securities Depository is not appointed by the Board within 90 days after the Board receives notice or becomes aware of such condition, as the case may be, then this Section shall no longer be applicable, and the Board shall execute and the Trustee shall authenticate and deliver certificates representing the affected Bonds to the owners of such Bonds as otherwise provided in this Article III.

Payment of the principal of, premium, if any, and interest on any Bonds not registered in Book-Entry Form shall be made as provided in Section 304 hereof.

The principal of, premium, if any, and interest on the Bonds registered in Book-Entry Form in the name of the Securities Depository or the Securities Depository Nominee shall be payable by wire transfer from the Trustee to the Securities Depository or the Securities Depository Nominee, as the case may be.

313. Securities Depository; Ownership of Bonds. The form of Bonds issued under this General Bond Ordinance shall be such form or forms prescribed by the applicable Series Ordinance.

314. Parity Bond Provisions. From and after the issuance and delivery of any of the Bonds authorized or permitted to be issued by this General Bond Ordinance, said General Bond Ordinance shall constitute the sole and exclusive method for the issuance of any Bonds by the City, and any further Series of Bonds of the City payable from the Pledged Receipts shall be authorized and issued solely pursuant to authority of this General Bond Ordinance.

Except as may be provided in a Series Ordinance, the Bonds authorized to be issued by this General Bond Ordinance and from time to time Outstanding, together with any additional Bonds ranking on a parity therewith issued under the conditions and restrictions of this section, shall not be entitled to priority one over the other in the application of the Pledged Receipts or the security for payment thereof, regardless of the time or times of their issuance it being the intention that there shall be no priority among such Bonds regardless of the fact that they may be actually issued and delivered at different times.

The City hereby reserves the right and privilege of issuing additional Series of Bonds from time to time payable from the Pledged Receipts of the System on a basis of parity and equality with all other parity Bonds authorized to be issued by this General Bond Ordinance in order to (a) reconstruct, repair and improve the City's System; (b) make, acquire, construct and install additions, extensions, betterments, or improvements thereto; (c) acquire existing utility facilities and systems from any person, if said System facilities and systems are revenue-producing; and (d) refund any Bonds Outstanding, provided in each instance that:

(i) the facility or facilities to be acquired, constructed, reconstructed or improved from the proceeds of the additional parity Bonds is or are made an integral part of the City's System and its or their income and revenues are pledged as additional security for the additional parity Bonds and the Outstanding Bonds;

(ii) the City is in compliance with all covenants and undertakings in connection with all of its Bonds then Outstanding and payable from the Pledged Receipts;

(iii) the net annual income and revenues of the System for a period of twelve (12) consecutive months of the eighteen (18) months immediately prior to the issuance of said parity Bonds, are certified in writing by an independent firm of state-licensed Certified Public Accountants (subject to adjustments as hereinafter provided) to have been equal to at least one and twenty-five hundredths (1.25) times the maximum Annual Debt Service Requirement coming due in any future Bond Fiscal Year on all Bonds Outstanding payable from Pledged Receipts, together with the parity Bonds then to be issued; and

(iv) the net annual income and revenues of the System for a period of twelve (12) consecutive months of the eighteen (18) months immediately prior to the issuance of said parity Bonds, are certified in writing by an independent firm of state-licensed Certified Public Accountants (subject to adjustments as hereinafter provided) to have been equal to at least one and ten hundredths (1.10) times the maximum Annual Debt Service Requirement coming due in any future Bond Fiscal Year on all Bonds and Subordinated Debt outstanding payable from Pledged Receipts, together with the parity Bonds then to be issued.

The words "net annual income and revenues," as used in this Section and Section 316 hereof, are defined as Pledged Receipts less Operation and Maintenance Costs for the same period.

With reference to the requirements of subparagraphs (iii) and (iv) of this Section 314, the amount of Pledged Receipts, and the "net annual income and revenues" of the System as that term is herein defined, may be adjusted in writing by a firm of independent state-licensed Certified Public Accountants, which firm shall be the firm performing the certification required by subparagraphs (iii) and (iv) of this Section 314, to reflect and take into account for the historical period being tested, any revision in the schedule of rates, rentals and charges being actually imposed and billed by the City at the time of issuance of such additional parity Bonds and, where bonds are refunded, the additional available "net income and revenues" of the System released as a result thereof.

The amount of Pledged Receipts and the "net annual income and revenues" of the System, as that term is herein defined, may also be adjusted in writing by a Consulting Engineer of National Recognition, to take into account and reflect for the historical period being tested, the amount of additional net income and revenues to be realized by the City by virtue of the acquisition by the City of existing and operating System facilities. A further adjustment may be made by adding thereto an estimate of the said engineer of the increase in operating revenues anticipated to be derived from the additions, extensions, replacements and betterments to be financed by the additional bonds then being authorized, for the first twelve months following issuance of said bonds, less said engineer's estimate of any additional expenses of operation and maintenance during said twelve months. Additionally, an adjustment thereunder may take into consideration revenues to be generated by virtue of contractual relationships between the City and other municipal corporations or other entities, either governmental or private, which contracts must extend for the life of the Bonds, where such income and revenues are historically determinable, for the period being tested, namely, 12 consecutive months of the 18 months immediately prior to issuance of parity bonds. Provided, however, that any such adjustment by such Consulting Engineer of National Recognition shall take into account only such income and revenues as would have been derived during the historical period being tested had the valid and lawful schedule of rates, rentals and charges of the City which is in effect at the time of issuance of parity Bonds been charged during such historical period being tested, and such adjustments shall also take into account all Operations and Maintenance Costs for such historical period being tested.

The City hereby covenants and agrees that in the event additional Series of parity Bonds are issued, it shall:

- (a) adjust the monthly deposits into the Debt Service Fund on the basis prescribed in the General Bond Ordinance to reflect the Annual Debt Service on the additional parity Bonds; and
- (b) adjust the prescribed amount to be accumulated in the Debt Service Reserve in accordance with the provisions of this General Bond Ordinance so that an amount equal to the Aggregate Debt Service Reserve Requirement will be maintained therein.

The additional parity Bonds (sometimes herein referred to as "permitted" to be issued) the issuance of which is herein conditioned and restricted, shall be understood to mean Bonds payable from the Pledged Receipts on a basis of parity and equality with the Bonds initially issued pursuant to the General Bond Ordinance, and shall not be construed to include other bonds or obligations, the security and source of payment of which are subordinate and subject to the priority of the Bonds herein authorized to be issued. The City expressly reserves the right to issue Subordinated Debt pursuant to Section 316 hereof payable from the revenues herein pledged and not ranking on a basis of equality and parity with the Bonds and parity Bonds herein otherwise described, but only if such Subordinated Debt is issued to provide for additions, betterments, extensions or improvements of the System, and only if the same are issued in express recognition of the priorities, liens and rights created and existing for the security and source of payment and protection of the Bonds and parity Bonds herein authorized and permitted to be issued. In the event any of such subordinate lien securities are issued, the City reserves the right to authorize and issue Subordinated Debt to refund same.

Nothing in this Section is intended or shall be construed as a restriction upon the ordinary refunding of the initially authorized Bonds and/or of any Bonds which may be issued and are Outstanding under any of the provisions of the General Bond Ordinance if such refunding does not operate to increase amortization requirements in any year to and including the final maturity of Bonds Outstanding and not to be refunded, if any.

315. Notes. Whenever the City shall have authorized or made provision for the authorization of, the issuance of a Series of Bonds, the City may by resolution or ordinance authorize the issuance of Notes in anticipation of the sale of such Series in a principal amount not exceeding the principal amount of such Series. The principal or any interest on such Notes and renewals thereof may be payable from and secured by a pledge of Revenues that is (i) subordinate to the pledge of such Revenues as security for Outstanding Bonds or (ii) on a parity with the pledge of such Revenues securing Outstanding Bonds, but, as to any parity pledge, only if the requirements set forth in Section 314 hereof for the issuance of additional Bonds would be satisfied assuming the principal amount of such Notes would be amortized over twenty (20) years on a level payment basis at prevailing market interest rates existing at the time of the issuance of the Notes. The principal on such Notes shall also be payable from the proceeds of the sale of the Series of Bonds in anticipation of which such Notes are issued. Such proceeds may be pledged for the payment of the principal of such Notes and such pledge shall have priority over any other pledge created by this General Bond Ordinance. The proceeds of sale of such notes shall be applied to the purposes for which such Notes are authorized, and, if the resolution or ordinance or resolutions or ordinances authorizing such Notes so provide, to the payment of interest and other costs in connection with the sale and issuance of such Notes.

Upon issuance of any Notes, there shall be established a separate and distinct "Note Redemption Fund" for the payment of the principal of, interest and any redemption premium on such Notes. There shall be deposited in such Note Redemption Fund (i) any accrued interest received upon the sale of such Notes, (ii) such amounts as may be necessary to pay principal of or interest on such Notes which may become due during the period that the Notes are Outstanding, in the same manner and priority as set forth in Section 504 for transfers to the Debt Service Fund; and (iii) sufficient proceeds of the Series of Bonds authorized to be issued at the time of issuance of such Notes to provide for the payment-in-full of such Notes. Amounts shall be disbursed from a Note Payment Fund to pay the principal of, interest and any redemption premium on the Notes for which such Fund was established, as and when the same shall become due and payable. Amounts on deposit in a Note Payment Fund shall be invested and reinvested in the same manner prescribed under Section 505 for the Debt Service Fund.

316. Subordinated Debt. The City may issue its Subordinated Debt payable from the revenues herein pledged and not ranking on a basis of equality and parity with the parity Bonds authorized to be issued pursuant to Section 314 hereof, but only if such Subordinated Debt is issued to provide for additions, betterments, extensions or improvements of the System, and only if the same is issued in express recognition of the priorities, liens and rights created and existing for the security and source of payment and protection of all Outstanding parity Bonds herein authorized and permitted to be issued; and provided further that:

- (i) the facility or facilities to be acquired, constructed, reconstructed or improved from the proceeds of the Subordinated Debt is or are made an integral part of the

System and its or their income and revenues are pledged as additional security for all Subordinated Debt and Bonds then Outstanding;

(ii) the City is in compliance with all covenants and undertakings in connection with this General Bond Ordinance and all of its Bonds then Outstanding and payable from the Pledged Receipts; and

(iii) the net annual income and revenues of the System for a period of twelve (12) consecutive months of the eighteen (18) months immediately prior to the issuance of said Subordinated Debt are certified in writing by an independent firm of certified public accountants (subject to adjustments as hereinafter provided) to have been equal to at least one (1.00) times the maximum annual debt service requirement on all Outstanding Bonds and Subordinated Debt payable from the Pledged Receipts, together with the Subordinated Debt then to be issued.

With reference to the requirements of subparagraph (iii) of this Section 316, the amount of Pledged Receipts, and the "net annual income and revenues" of the System, may be adjusted in writing by a firm of independent certified public accountants, which firm shall be the firm performing the certification required by subparagraph (iii) of this paragraph Section 316, to reflect and take into account for the historical period being tested, any revision in the schedule of rates and charges either (i) being actually imposed and billed by the City at the time of issuance of such Subordinated Debt and, (ii) where outstanding Subordinated Debt is refunded, the additional available "net income and revenues" of the System released as a result thereof.

The amount of Pledged Receipts and the "net income and revenues" of the System may also be adjusted in writing by an engineer with expertise in the field of water, electric and sewer system engineering to take into account and reflect for the historical period being tested, the amount of additional net income and revenues to be realized by the City by virtue of the acquisition by the City of existing and operating System facilities. A further adjustment may be made by adding thereto an estimate of said engineer of the increase in Pledged Receipts anticipated to be derived from the additions, extensions, replacements and betterments to be financed by the Subordinated Debt then being authorized, for the first twelve months following issuance of said Subordinated Debt, less said engineer's estimate of any additional expenses of operation and maintenance during said twelve months. Additionally, an adjustment thereunder may take into consideration revenues to be generated by virtue of contractual relationships between the City and other municipal corporations or other entities, either governmental or private, where such income and revenues are historically determinable, for the period being tested, namely, 12 consecutive months of the 18 months immediately prior to issuance of Subordinated Debt. Provided, however, that any such adjustment by such engineer shall take into account only such income and revenues as would have been derived during the historical period being tested had the valid and lawful schedule of rates, rentals and charges of the City which is in effect at the time of issuance of the Subordinated Debt been charged during such historical period being tested, and such adjustments shall also take into account all Operation and Maintenance Costs for such historical period being tested.

The City hereby covenants and agrees that in the event Subordinated Debt is issued, it shall adjust the monthly deposits into the Debt Service Fund, including the subaccounts therein



to be established upon the issuance of Subordinated Debt (the "Subordinated Debt Accounts"), on the basis prescribed herein to reflect the annual debt service on all Subordinated Debt then outstanding.

In the event any such Subordinated Debt is issued, the City may authorize and issue subordinated debt to refund same, pursuant to the same terms and conditions as set forth in Section 314 hereof for the refunding of parity Bonds.

It is hereby acknowledged that the City has entered into an Assistance Agreement with KIA dated as of July 1, 2004 relating to the System, that its obligations thereunder are hereby ratified and affirmed and that, in accordance with the consent of KIA, such obligations shall be and will constitute Subordinated Debt.

[End of Article III]

**ARTICLE IV**  
**APPLICATION OF BOND PROCEEDS**

401. Application of Bond Proceeds.

(1) All proceeds of the Bonds of any Series to be issued, upon their issuance, sale and delivery, shall be deposited in the applicable Funds or Accounts specified, in accordance with the provisions of the Series Ordinance authorizing the issuance of the Bonds of such Series. Such proceeds shall be applied solely for purposes for which amounts in said Funds or Accounts, respectively, may be applied in accordance with the provisions of the Series Ordinance and the General Bond Ordinance.

(2) Accrued interest and capitalized interest, if any, received upon delivery of any Series of Bonds shall be deposited in the Series Interest Account of the Debt Service Fund. The amount, if any, received as a premium over the principal amount of any Series of Bonds upon delivery of such Series shall be applied as provided in the Series Ordinance authorizing such Series.

[End of Article IV]

**ARTICLE V**  
**ESTABLISHMENT OF FUNDS AND ACCOUNTS**  
**APPLICATION OF PLEDGED RECEIPTS**

501. The Pledge Effected by the General Bond Ordinance.

(1) There are hereby pledged for the payment of the principal of or Redemption Price, if any, and interest on the Bonds, and the Sinking Fund Installments for the retirement thereof, in accordance with their terms and the provisions of the General Bond Ordinance, subject only to the provisions of the General Bond Ordinance permitting the application thereof for or to the purposes and on the terms and conditions set forth in the General Bond Ordinance, (a) the proceeds of sale of the Bonds to the extent not required to be utilized for payment of Notes, (b) Investment Obligations acquired by Bond proceeds or by application of funds derived from the Revenues, (c) the Pledged Receipts, and (d) all Funds created and established pursuant to the General Bond Ordinance, including Accounts thereof and moneys and securities therein.

(2) The proceeds of sale of the Bonds, the Investment Obligations, the Pledged Receipts and all Funds created and established pursuant to the General Bond Ordinance, including Accounts thereof created and established pursuant to the General Bond Ordinance and moneys and securities therein, hereby pledged, shall immediately be subject to the lien of the pledge of Section 501 without any physical delivery thereof or further act, and the lien of said pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City, irrespective of whether such parties have notice thereof.

502. Funds And Accounts For Bonds Authorized By This General Bond Ordinance.

The City hereby establishes and creates the following special trust funds and accounts:

- (1) Bond Proceeds Fund
- (2) Revenue Fund
- (3) Debt Service Fund  
    Within the Debt Service Fund an  
        Interest Account and a  
        Principal Account
- (4) Debt Service Reserve
- (5) Operation and Maintenance Fund
- (6) Depreciation Fund
- (7) Surplus Fund.

Such Funds and Accounts shall be maintained by the City and shall apply to any Bonds or Notes issued under the terms of this General Bond Ordinance. All limitations and requirements of such Funds and Accounts shall continue to be met for so long as any of the Bonds are Outstanding.

The above identified Funds and Accounts shall be held and maintained by the City in financial institutions (being hereinafter sometimes referred to as "depositories," and each being a

Fiduciary as defined in the General Bond Ordinance) from time to time appointed by the City in a Series Ordinance or by other action of the City.

503. Bond Proceeds Fund.

(1) There is hereby created the Bond Proceeds Fund-General Bond Ordinance (the "Bond Proceeds Fund"). The City shall establish and create within the Bond Proceeds Fund, beginning with the issue of the first Series of Bonds or Notes hereunder, a separate (a) Cost of Issuance Account, and a separate (b) Construction and Acquisition Account, for each Series of Bonds or Notes Outstanding, (provided, that in the event that Bond or Note proceeds are to be used in whole or in part for the payment, or provision therefore, of outstanding debt obligations, a different suitable name and purpose for such separate account may be employed such as "\_\_\_\_\_ Refunding Account") and shall identify each separate Account by inserting in the designation therefore the year, letter or other designation of the Bonds of such Series.

(2) There shall be deposited from time to time in the Cost of Issuance Account established for each Series the amount of moneys necessary to pay the costs of issuance of such Series from either:

(a) the proceeds of the Bonds of such Series as specified and determined in the Series Ordinance authorizing the issuance of such Series, or

(b) moneys from time to time received by the City from any other source, and determined by the City to be deposited in such Account, unless required to be otherwise applied as provided by the Ordinance.

To the extent not otherwise provided for, the Cost of Issuance of a Series of Bonds shall be paid only from the moneys credited to the Cost of Issuance Account established for such Series of Bonds.

(3) The depository shall from time to time pay out, or permit the withdrawal, of moneys credited to any Cost of Issuance Account, free and clear of any lien or pledge or assignment in trust created by this Article, for the purpose of paying in the manner herein authorized any Costs of Issuance of the Bonds of the Series for which such Account was established, upon receipt by said depository of a check or other bill of exchange drawn upon such Account, signed by an Authorized Officer stating with respect to each payment to be made:

- (a) the item for which payment is to be made,
- (b) the name of the person or party to whom the payment is to be made, and
- (c) the amount to be paid.

(4) Upon receipt of a Certificate signed by an Authorized Officer to the effect that all Costs of Issuance of the applicable Series of Bonds have been paid, the depository, upon such direction of the City, taken by similar action, shall transfer any moneys remaining in said Cost of Issuance Account to the Construction and Acquisition Account established for such Series.

(5) Upon the deposit of the proceeds of the Bonds of a Series or other moneys in the manner hereinabove prescribed in any Cost of Issuance Account, the City shall direct the depository to invest and reinvest the moneys in said identified Account in Investment Obligations, so that the maturity date or date of redemption at the option of the holder of such Investment Obligations shall coincide as nearly as practicable with the times at which moneys are needed by the City to be expended. The Investment Obligations purchased shall be physically held by the depository and shall be deemed at all times to be part of such Cost of Issuance Account and the depository shall deliver to the City a safekeeping certificate as to the identity and amount of all such investments. The City shall sell at the best price obtainable or present for redemption, any obligations purchased by it as an investment whenever it shall be necessary in order to provide moneys to meet any payment from the Cost of Issuance Account.

(6) There shall be deposited into the applicable Construction and Acquisition Account, such amounts of the proceeds of the Bonds of any Series required to be deposited therein as shall be specified and determined by the Series Ordinance authorizing such Series of Bonds, in accordance with and subject to the provisions of Article IV.

(7) Moneys credited to the Construction and Acquisition Account shall be expended only for the payment of Construction costs of the System subject to the provisions and restrictions of this Section.

(8) Except as may be expressly limited by the purposes for which a Series of Bonds is issued as set forth in the Series Ordinance authorizing such Series, amounts in any Construction and Acquisition Account shall be expended and applied by the depository upon issuance of a check or other bill of exchange drawn upon such Account, signed by an Authorized Officer. Such checks shall be issued in connection with the System work for which such Series of Bonds is issued, in order to make disbursements required to be made by the City pursuant to the terms and provisions of construction and acquisition contracts to which the City is a party relating to the System. The City shall keep and maintain complete and detailed records with respect to said Construction and Acquisition Account.

(9) Upon the deposit of the proceeds of the Bonds of a Series or other moneys in the manner hereinabove prescribed in the Construction and Acquisition Account, the City shall invest and reinvest the moneys in said Account in Investment Obligations so that the maturity date or date of redemption at the option of the holder of such Investment Obligations shall coincide as nearly as practicable with the times at which moneys are required by the City to be expended on account of construction and acquisition contracts in respect of the System. All Investment Obligations purchased shall be physically held in the custody of the depository and shall be deemed at all times to be part of such Construction and Acquisition Account, and the depository shall deliver to the City a safekeeping certificate as to the identity and amount of all such investments. The City shall, by order signed by an Authorized Officer, sell at the best price obtainable, or present for redemption, any Investment Obligations purchased by it as an investment whenever it shall be necessary in order to provide moneys to meet any authorized payment from such Construction and Acquisition Account.

(10) The City shall from time to time pay out or permit the withdrawal of moneys from any Construction and Acquisition Account for the purpose of making disbursements and payments to contractors, material suppliers, fabricators and others rendering services pursuant to the System, pursuant to the terms of contracts between the City and such persons upon issuance of a check or other bill of exchange drawn upon such Account signed by an Authorized Officer, accompanied by a written voucher executed by the Engineers, if Engineers have been retained, which voucher shall contain the following with respect to each payment or disbursement to be made:

(a) the name of the person or party to whom the payment or disbursement is to be made;

(b) the amount to be paid to such person or party;

(c) the applicable construction, acquisition or service contract in respect of which the payment or disbursement is to be made;

(d) that with respect to such requested payment or disbursement there has not been filed with or served upon the City notice of any lien or attachment upon, or claim affecting the right to receive, payment of any of the amounts requisitioned and payable to any of the persons, firms, or corporations named in such requisition which has not been released or will not be released simultaneously with such payment;

(e) that such requisition for payment contains no item representing payment on account of any retained percentages of Construction cost which the City is at the date of such requisition entitled to retain;

(f) that in connection with such requisition for payment, the City has received such proofs as are properly required by the City to the effect that each obligation set forth in said requisition for payment has been (i) properly incurred, and (ii) is then due and unpaid; and (iii) that insofar as such obligation was incurred for work, services materials, equipment or supplies, such work or services was actually performed, or such materials, equipment or supplies were actually installed in furtherance of the Construction of the System, or were delivered at the site or sites of the System for such purposes.

In the event Engineers have not been retained in connection with the costs to be paid from the Construction and Acquisition Account, then an Authorized Officer shall execute the voucher containing the information prescribed by (a) through (f) above.

(11) All such written checks or bills of exchange (requisitions) of the City signed by an Authorized Officer and conforming to subsection (1) above received by the depository as herein set forth may be relied upon by and shall be retained in the possession of the depository, subject at all times to the inspection of the City and its officials.

(12) At such times as all moneys due to be disbursed from any Construction and Acquisition Account have been so disbursed and paid, and the depository has received (a) a

Certificate executed by an Authorized Officer stating that completion of the designated portion of the System authorized by the specified Series of Bonds has occurred, which Certificate shall be accompanied by (b) an opinion of legal counsel for the City stating that there are no uncalled mechanics', laborers', contractors' or materialmen's liens on file in any public office where the same should be filed in order to be valid liens against any part of any System facilities constructed by the City, and that in the opinion of said legal counsel the time within which such liens can be filed has expired, the balance in such Construction and Acquisition Account shall thereupon be transferred by the depository to the Debt Service Fund, or upon the filing of a Certificate by such Authorized Officer to the effect that either (a) a further Series of Bonds are due to be issued within a reasonable time or (b) the City anticipates that within six months of such date the City will incur Construction costs for which it would be inefficient or impractical to issue an additional Series of Bonds, then such funds may be held in said Account or the City, by a certificate executed by such Authorized Officer, may direct the depository to pay and transfer such remaining balance to any other Construction and Acquisition Account created in connection with the System.

504. Utility Revenue Fund. (1) The City shall cause all moneys received as Pledged Receipts, together with income from the Debt Service Reserve pursuant to Section 506(5) hereof, to be deposited promptly into the Revenue Fund.

(2) To the extent moneys are received by the City representing any legislative appropriation or grant, federal or state, for purposes of deposit to the Revenue Fund, the Debt Service Fund or the Debt Service Reserve, or for the defrayal of Operation and Maintenance Costs, such funds shall be promptly transmitted by the City to the appropriate depository for deposit to the Fund or Account so specified.

(3) The City shall cause all moneys received as such income and revenues, and as such Pledged Receipts as set forth in the statement of account, to be transferred from the Revenue Fund and deposited to the following Accounts and Funds on no less than a monthly basis (except for item SIXTH) in the amounts hereinafter stated and in the prescribed sequence:

FIRST: Into the Interest Account within the Debt Service Fund an amount equal to (i) the interest on each Series of Outstanding Bonds accrued and unpaid in respect of the next Interest Payment Date for each Series of Bonds Outstanding, or to reimburse a credit provider for its direct payment of such interest under an agreement with such credit provider, (ii) divided by the number of months preceding the next Interest Payment Date for the related Series of Bonds.

SECOND: Into the Principal Account within the Debt Service Fund an amount equal to (i) the Principal Installments accrued and unpaid in respect of the next Principal Installment Date for each Series of Bonds Outstanding, or to reimburse a credit provider for its direct payment of such principal under an agreement with such credit provider, (ii) divided by the number of months preceding the next Principal Installment Date for the related Series of Bonds.

THIRD: Into the Debt Service Reserve such amount as may be required to comply with the requirements of Section 506(2) and Section 506(7).

FOURTH: Into the Operation and Maintenance Fund, (i) the amount of moneys needed and required prior to the tenth day of the succeeding month to pay reasonable and necessary Operation and Maintenance costs in accordance with the Annual Budget (the "Monthly Requirement") together with (ii) such proportionate amounts as will, during the twenty-four months following the issuance of any Series of Bonds or Subordinated Debt, together with sums then on deposit in said Fund, equal estimated and budgeted Operation and Maintenance Costs for one (1) month, such additional sums to be held as an operational reserve and expended as required, subject to replacement in the same manner, if so expended.

FIFTH: Into the Depreciation Fund an amount equal to 1/36th of the Depreciation Reserve Requirement so that the Depreciation Reserve Requirement will be met within thirty-six months of the date of issuance of a series of bonds hereunder. If at any time the amount in the Depreciation Fund is less than the Depreciation Reserve Requirement, there shall be deposited into the Depreciation Fund, on no less than a monthly basis, an amount equal to 1/36th of such deficiency so that the balance in the Depreciation Fund will equal the Depreciation Reserve Requirement in the month that is thirty-six months from the month such deficiency first existed. Thereafter such monthly payments may cease for so long as the required balance in the Depreciation Fund is maintained and such monthly payments shall resume again if at any time said balance is less than the Depreciation Reserve Requirement and shall continue until said balance is established.

SIXTH: To the payment of the principal of, interest and any premium on Subordinated Debt.

SEVENTH: On a periodic basis, the revenues remaining in the Revenue Fund at the end of the month, or, in the case of annual transfers, the preceding calendar year, after making the payments required by paragraphs FIRST to FIFTH, inclusive, hereof, including any balances to be accrued and maintained, may be transferred to the Surplus Fund.

(4) Moneys in the Revenue Fund shall be invested by the City in Investment Obligations maturing no later than the tenth (10th) day of the month next succeeding the month that the depository last made deposits as provided in subsection (3) hereof, and except for such investments, shall be used only to make the deposits as provided for in this Section. All investments made by the City in any Fund or Account created by this General Bond Ordinance shall be made upon written order issued by an Authorized Officer.

505. Debt Service Fund. (1) The Debt Service Fund shall be maintained by the City in the appropriate depository so long as any of the Bonds or Subordinated Debt authorized or permitted to be issued by this General Bond Ordinance remain outstanding; and all moneys deposited in the Debt Service Fund from time to time shall be used, disbursed and applied, and are irrevocably pledged solely for the purpose of paying the principal of, interest on, and Sinking



Fund installments in respect of all Bonds and Subordinated Debt as may be issued and outstanding from time to time pursuant to the provisions of this General Bond Ordinance. Funds in the Debt Service Fund may, from time to time, at the option of the City, be used and employed to purchase sufficient term Bonds or term Subordinated Debt, if any be outstanding, to satisfy a Sinking Fund installment due within the next succeeding twelve (12) months. The City shall direct the depository to, and the depository shall, pay out of the Interest Account to any Paying Agents for any of the Bonds and Subordinated Debt (a) on the day preceding each Interest Payment Date, the amounts required for the payment of interest on the Outstanding Bonds and Subordinated Debt due on such date, and (b) on the date preceding the Redemption Date or date of purchase, the amounts required for the payment of accrued interest on Bonds or Subordinated Debt redeemed or purchased for retirement unless the payment of such accrued interest shall be otherwise provided for, and in each such case, such amounts shall be applied by such Paying Agents to such payments.

(2) The City may invest the moneys in the Interest Account in Investment Obligations so that the maturity date or date of redemption at the option of the holder shall be on or before the Interest Payment Date next succeeding the date upon which such investment is made.

(3) The City shall direct the depository to, and the depository shall, pay out of moneys credited to the Principal Account to the respective Paying Agents on the day preceding each Principal Installment Date for any of the Outstanding Bonds or Subordinated Debt, the amounts required for the payment of principal due on such date and such amounts shall be applied by the Paying Agents to such payments.

(4) The amount accumulated in the Principal Account for each Sinking Fund Installment may, at the option of the City, be applied (together with amounts accumulated in the Interest Account with respect to interest on the Bonds or Subordinated Debt for which such Sinking Fund Installment was established) by the City prior to the forty-fifth (45th) day preceding the due date of such Sinking Fund Installment, as follows:

(a) to the purchase of Bonds or Subordinated Debt of the Series and maturity for which such Sinking Fund Installment was established, at prices (including any brokerage and other charges) not exceeding the Redemption Price payable from Sinking Fund Installments for such Bonds or Subordinated Debt when such Bonds or Subordinated Debt are redeemable by application of said Sinking Fund Installments, plus unpaid interest accrued to the date of purchase, such purchases to be made in such manner as the City shall determine, or

(b) to the redemption, pursuant to Article VI, of such Bonds or Subordinated Debt if then redeemable by their terms at the Redemption Price referred to in Clause (a) above.

As soon as practicable after the forty-fifth (45th) day preceding the due date of any such Sinking Fund Installment, the City shall proceed to call for redemption, pursuant to Section 603, on such due date, Bonds or Subordinated Debt of the Series and maturity for which such Sinking Fund Installment was established in such amount as shall be necessary to

complete the retirement of the principal amount specified for such Sinking Fund Installment of the Bonds or Subordinated Debt of such Series and maturity. The City shall so call such Bonds or Subordinated Debt for redemption whether or not it then has moneys in the Principal Account sufficient to pay the applicable Redemption Price thereof, to the Redemption Date. The City shall direct the depository to, and the depository shall, pay out of such Principal Account to the appropriate Paying Agents, on the day preceding each such Redemption Date, the amount required for the redemption of the Bonds or Subordinated Debt so called for redemption, and such amount shall be applied by such Paying Agents to such redemption.

(5) The City may invest the moneys in the Principal Account in Investment Obligations so that the maturity date or date of redemption at the option of the holder shall be on or before the Principal Installment Date next succeeding the date when such investment is made.

(6) Amounts remaining in the Interest Account on any Interest Payment Date, or in the Principal Account on any Principal Installment Date may, to the extent not needed to pay interest and Principal Installments, respectively, be transferred to the Revenue Fund.

506. Debt Service Reserve.

(1) There shall be deposited to the credit of the Debt Service Reserve (a) all Pledged Receipts from the Revenue Fund required to be deposited therein by this General Bond Ordinance, (b) all moneys received on account of or in connection with Investment Obligations credited to the Debt Service Reserve as in this Section provided, and (c) all Bond proceeds required to be deposited in said Debt Service Reserve to satisfy the Aggregate Debt Service Reserve Requirement in the amounts set forth in a Series Ordinance.

(2) The Debt Service Reserve is pledged to and shall be used for the payment of principal of, interest on, and Redemption Price, if any, in respect of any Outstanding Bond as to which there would otherwise be a default in payment, and sums in the Debt Service Reserve shall be transferred to other Funds and Accounts in a timely manner upon due certification as provided in subsection (3) of this Section 506 in order to effectuate the intent of this Section and the purposes of the Debt Service Reserve. In the event that amounts in the Debt Service Reserve are reduced below the Aggregate Debt Service Reserve Requirement as a result of transfers to the Debt Service Fund, the deficiency in the Debt Service Reserve shall be cured from the first available revenues by making monthly deposits to the Debt Service Reserve in equal amounts so that such deficiency is eliminated upon making twenty-four (24) such deposits.

(3) The City shall cause the depository from time to time to transfer or pay out moneys in the Debt Service Reserve for the purpose of making payments and transfers to other Funds and Accounts pursuant to subsection (2) hereof upon receipt by said depository of a check or other bill of exchange executed by an Authorized Officer stating with respect to each payment or transfer to be made:

- (a) the Account or Fund to which the payment or transfer is to be made,
- (b) the purpose of the payment or transfer, and
- (c) the amount to be paid.

(4) Sums from time to time in the Debt Service Reserve shall be continuously invested upon direction of the City, in Investment Obligations. The City shall sell at the best price obtainable, or present for redemption, any Investment Obligations purchased by it as an investment whenever it shall be necessary in order to provide moneys to effectuate the purposes of the Debt Service Reserve.

(5) Any interest earned or sums realized as a result of investment of moneys in the Debt Service Reserve in Investment Obligations shall accrue to, and be a part of, said Debt Service Reserve; provided, however, that so long as the Debt Service Reserve contains the Aggregate Debt Service Reserve Requirement, any such interest earned or sums realized shall be transferred, as received, to the Revenue Fund.

(6) In lieu of the deposit of funds in the Debt Service Reserve, the City may obtain a Debt Service Reserve Guaranty. Any Debt Service Reserve Guaranty shall be considered a deposit of funds in the Debt Service Reserve equal to the Debt Service Reserve Coverage provided by the Debt Service Reserve Guaranty Agreement.

As conditions precedent to delivery of a Debt Service Reserve Guaranty, the City shall obtain (i) a Debt Service Reserve Guaranty, (ii) an opinion of counsel addressed to the City stating that the delivery of such Debt Service Reserve Guaranty to the City is authorized under the General Bond Ordinance, and complies with the terms thereof, and (iii) written evidence from a Rating Agency, if the Bonds are rated by such Rating Agency, that the Rating Agency has reviewed the proposed Debt Service Reserve Guaranty and that (x) the issuance of the Debt Service Reserve Guaranty to the City and (y) if a Debt Service Reserve Guaranty is then in effect with respect to the Debt Service Reserve, the substitution of the proposed Debt Service Reserve Guaranty for the Debt Service Reserve Guaranty then in effect, will not, by itself, result in a reduction or withdrawal of its rating on the Bonds. If the Bonds are insured by a bond insurer, the references to Rating Agency in the prior sentence shall be read to mean such bond insurer and the substitution of the proposed Debt Service Reserve Guaranty shall not result in the cancellation of the bond insurance provided by such Bond Insurer.

"Debt Service Reserve Guarantor" means the issuer of a Debt Service Reserve Guaranty.

"Debt Service Reserve Guaranty" means a letter of credit, surety bond or similar arrangement representing the irrevocable obligation of the Debt Service Reserve Guarantor to pay to the City upon request made by the City up to an amount stated therein for application as provided in this Section 506.

"Debt Service Reserve Guaranty Agreement" means the reimbursement agreement, loan agreement or similar agreement between the City and a Debt Service Reserve

Guarantor with respect to repayment of amounts advanced under the Debt Service Reserve Guaranty.

"Debt Service Reserve Guaranty Coverage" means the amount available at any particular time to be paid to the City under the terms of the Debt Service Reserve Guaranty.

"Debt Service Reserve Guaranty Limit" means the maximum aggregate amount available to be paid to the City under the terms of a Debt Service Reserve Guaranty.

"Rating Agency" means either Moody's Investors Service, Inc. Standard & Poor's Ratings Services, a division of The McGraw Hill Companies, Inc. or Fitch Ratings, corporations organized under the laws of the States of Delaware, New York and New York, respectively, and their successors and assigns.

(7) Unless the Debt Service Reserve is funded as provided in clause (6) above, the value of Investment Obligations, as determined in accordance with Section 510, shall be calculated at least annually, and any deficiency recognized by such valuation shall be cured from the first available Water Revenues.

507. Operation and Maintenance Fund. (1) The Operation and Maintenance Fund shall be used to pay the reasonable expenses of operating, maintaining and repairing the System and for paying Operation and Maintenance Costs. There shall be paid into the Operation and Maintenance Fund the amounts required to be so paid by the provisions of Section 504, and there may be paid into the Operation and Maintenance Fund any moneys received by the City from any other source, unless required to be otherwise applied as provided by this General Bond Ordinance.

(2) Subject to the provisions and requirements of subsection (3) of Section 504, moneys in the Operation and Maintenance Fund shall be withdrawn and paid out from time to time by the City for the purpose of paying reasonable or necessary Operation and Maintenance Costs and when so withdrawn and paid out shall be free and clear of any lien, pledge or assignment in trust created by this General Bond Ordinance, provided, however, the City may at any time withdraw moneys from the Operation and Maintenance Fund and deposit such moneys into any other Funds or Accounts created by this General Bond Ordinance, other than the Depreciation Fund.

(3) Amounts in the Operation and Maintenance Fund may, in the discretion of the City, be invested in Investment Obligations maturing in such amounts and at such times as may be necessary to provide funds when needed to pay Operation and Maintenance Costs. The City may, and to the extent required for payments from the Operation and Maintenance Fund shall, sell at the best price obtainable, or duly present for redemption, any such Investment Obligations at any time, and the proceeds of such sale and of all payments at maturity and upon redemption of such Investment Obligations shall be held in the Operation and Maintenance Fund and unless otherwise transferred or expended pursuant to the provisions of this Section shall be applied to reduce the next succeeding Monthly Requirement.

508. Depreciation Fund. (1) The Depreciation Fund shall be available and shall be utilized to make repairs and replacements to the System and to pay the costs of constructing additions, extensions, betterments and improvements to the System which will either increase income and revenues or provide a higher degree of service. There shall be deposited or transferred to the Depreciation Fund any moneys required to be deposited or transferred thereto by the provisions of Section 504 hereof.

(2) In addition, there shall be transferred to and deposited in the Depreciation Fund any other moneys:

(a) received by the City from any other source and duly determined and ordered by the City to be deposited therein, unless required to be otherwise applied as provided by this General Bond Ordinance,

(b) for which the City has exercised a discretion to so deposit or transfer as permitted by this General Bond Ordinance, and

(c) ordered to be so deposited from the proceeds of any Series of Bonds, pursuant to a duly adopted Series Ordinance.

(3) In addition, amounts in the Depreciation Fund may be expended and applied upon written direction of an Authorized Officer from time to time only:

(a) for making up any deficiency existing at any time in the minimum amounts required to be on hand in the Debt Service Fund and the Debt Service Reserve as provided by this General Bond Ordinance,

(b) for the redemption of Bonds, in whole or in part, as provided in Article VI of this Ordinance,

(c) for the payment of Principal Installments of and interest on Bonds when due, without limitation,

(d) for transfer and deposit to the Revenue Fund, or

(e) for investment in Investment Obligations which shall be a part of the Depreciation Fund.

(4) Any Investment Obligation credited to the Depreciation Fund may be sold at any time by the City, upon written direction by an Authorized Officer in order to provide moneys for any of the purposes described in subsection (3) hereof.

(5) To the extent that other moneys will not be available for the payment of Principal Installments of and interest on Bonds or Subordinated Debt when due, any Investment Obligation credited to the Depreciation Fund shall be sold by the City, upon written direction by an Authorized Officer and the proceeds of such sales shall be deposited in the Debt Service Fund.

(6) The depository shall from time to time pay out or permit the withdrawal of moneys from the Depreciation Fund for the purpose of making payments pursuant to subsection (3) hereof upon receipt by said depository of a check or bill of exchange executed by two members of the Utility City Board of the City stating the following with respect to each payment to be made:

- (a) the Fund from which the payment is to be made,
  - (b) the name of the person or party to whom the payment is to be made,
- and
- (c) the amount to be paid.

509. Surplus Fund. (1) The Surplus Fund shall be maintained by the City in the appropriate depository so long as any of the Bonds authorized or permitted to be issued by this General Bond Ordinance remain Outstanding; and all moneys deposited in the Surplus Fund may be used as follows: (a) to the extent necessary from time to time monies in the Surplus Fund shall be transferred to the Debt Service Fund to permit payment of all obligations payable from such Fund without drawing on the Debt Service Reserve; (b) monies in the Surplus Fund shall be used for payment of principal of and interest on any outstanding bonds and notes issued by the City to pay for costs of improving or extending the System or may be transferred to the appropriate Fund or Account created herein or in any Series Ordinance adopted pursuant to this General Bond Ordinance to permit such payment; and (c) monies in the Surplus Fund otherwise may be used for any other lawful purpose of the City.

(2) Sums from time to time in the Surplus Fund shall be continuously invested upon direction of the City, in Investment Obligations. The City shall sell at the best price obtainable, or present for, redemption, any Investment Obligations purchased by it as an investment whenever it shall be necessary in order to provide moneys to effectuate the purposes of the Surplus Fund.

(3) Any interest earned or sums realized as a result of investment of monies in the Surplus Fund in Investment Obligations shall accrue to, and be a part of, said Surplus Fund.

510. Investment of Funds; Valuation. Except as otherwise provided for in this General Bond Ordinance:

(a) Investment Obligations purchased as an investment of moneys in any Fund or Account held by the City or the depository under the provisions of this General Bond Ordinance shall be deemed at all times to be a part of such Fund or Account and the income or interest earned, gains realized or losses suffered by a Fund or Account due to the investment thereof shall be retained in, credited or charged thereto as the case may be, subject, in the case of the Debt Service Reserve, to the provisions of Section 506(5) hereof; provided that escrow agreements may provide otherwise.

(b) In computing the amount in all Funds, including the Accounts thereof, Investment Obligations purchased as an investment of moneys therein, shall be valued at the

lesser of cost or fair market value. Valuation as of any date of computation shall include the amount of interest or gain realized to such date.

(c) The City shall sell at the best price obtainable, or present for redemption or exchange, any Investment Obligation purchased by it as an investment pursuant to this General Bond Ordinance whenever it shall be necessary in order to provide moneys to meet any payment or transfer from the Fund or Account for which such investment was made. The depository shall advise the City in writing, on or before the twentieth day of each calendar month, of the details of all Investment Obligations held for the credit of each Fund or Account in its custody under the provisions of this General Bond Ordinance as of the end of the preceding month. The depository shall review and advise the City annually on the nature and value of investments in each Fund or Account. In the event that Investment Obligations in the Debt Service Reserve fall below the level required by this General Bond Ordinance, the depository shall notify the City and the City shall cure such deficiency as provided in Section 506(2) hereof.

[End of Article V]

**ARTICLE VI  
REDEMPTION OF BONDS**

601. Privilege of Redemption and Redemption Price. Bonds subject to redemption prior to maturity pursuant to a Series Ordinance shall be redeemable, upon notice as provided in this Article, at such times, at such Redemption Prices and upon such terms as may be specified in the Series Ordinance authorizing such Series.

602. Redemption at the Election or Direction of the City. In the case of any redemption of Bonds otherwise than as provided in Section 603, the City shall give written notice to the depository of the Debt Service Fund and the applicable Paying Agents of its election so to redeem, of the Redemption Date, of the Series, of the principal amounts of the Bonds of each maturity of such Series to be redeemed (which Redemption Date, Series, maturities and principal amounts thereof to be redeemed shall be determined by the City in its sole discretion, subject to any limitations with respect thereto contained in this Ordinance and any Series Ordinance) and of any moneys to be applied to the payment of the Redemption Price. Such notice shall be given at least 45 days prior to the Redemption Date or such shorter period as shall be acceptable to the depository of the Debt Service Fund and the applicable Paying Agents. In the event notice of redemption shall have been given as in Section 605 provided, the depository of the Debt Service Fund shall, prior to the Redemption Date, pay to the appropriate Paying Agent or Paying Agents an amount in cash which, in addition to other moneys, if any available therefore held by such Paying Agent or Paying Agents, will be sufficient to redeem on the Redemption Date at the Redemption Price thereof, all of the Bonds to be redeemed.

603. Selection of Bonds to Be Redeemed By Lot. In the event of redemption of less than all the Outstanding Bonds of like Series and maturity, the City, or Registrar as directed by the City, shall assign to each such Outstanding Bond a distinctive number for each \$5,000 of the principal amount of such Bond and shall select by lot, using such method of selection as it shall deem proper in its discretion, as many numbers as, at \$5,000 for each number shall equal the principal amount of such Bonds to be redeemed. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected; provided, however, that only so much of the principal amount of each such Bond of a denomination of more than \$5,000 shall be redeemed as shall equal \$5,000 for each number assigned to it and so selected. For the purpose of this Section, Bonds which have theretofore been selected by lot for redemption shall not be deemed Outstanding.

604. Notice of Redemption. The City or Paying Agent as directed by the City, shall give notice in the name of the City of the redemption of Bonds determined to be redeemed, which notice shall specify the Series and maturities of the Bonds to be redeemed, the Redemption Date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of any like Series and maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such Date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued to the Redemption Date, and



that from and after such Redemption Date interest thereon shall cease to accrue and be payable. The City shall mail a copy of such notice, postage prepaid, registered mail, not less than thirty (30) days before the Redemption Date to the Holders of any Bonds or portions of Bonds which are to be redeemed, at their addresses appearing upon the registry books.

605. Payment of Redeemed Bonds. Notice having been given in the manner provided in Section 604, the Bonds or portions thereof so called for redemption shall become due and payable on the Redemption Date so designated at the Redemption Price, plus interest accrued and unpaid to the Redemption Date, and, upon presentation and surrender thereof at the office specified in such notice, together with an assignment duly executed by the Holder or his duly authorized attorney, such Bonds, or portions thereof, shall be paid at the Redemption Price plus interest accrued and unpaid to the Redemption Date. If there shall be drawn for redemption less than all of a Bond, the City shall execute and the Paying Agent shall deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of like Series and maturity in any of the authorized denominations. If, on the Redemption Date, moneys for the redemption of all the Bonds or portions thereof of any like Series and maturity to be redeemed, together with interest to the Redemption Date, shall be held by the applicable Paying Agent so as to be available therefore on said date and if notice of redemption shall have been given as aforesaid, then, from and after the Redemption Date interest on the Bonds or portions thereof of such Series and maturities so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

[End of Article VI]

**ARTICLE VII  
PARTICULAR COVENANTS OF THE CITY**

701. Effect of Covenants. The City hereby particularly covenants and agrees with the Holders of the Bonds, and makes provisions which shall be a part of the contract with such Holders, to the effect and with the purposes set forth in the following Sections of this Article.

702. Payment of Bonds. The City shall duly and punctually pay or cause to be paid from the moneys and assets herein pledged, the principal of or Redemption Price, if any, of every Bond and the interest thereon, at the date and places and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, and shall duly and punctually pay or cause to be paid all Sinking Fund Installments, if any, becoming payable with respect to any Series of Bonds, but solely from the moneys pledged pursuant to this Ordinance.

703. Offices For Servicing Bonds. The City shall at all times maintain or cause to be maintained an office or agency where notices, presentations and demands upon the City in respect of the Bonds or of this Ordinance may be served. The City hereby designates the Registrars' principal offices as the offices for the registration, transfer or exchange of Bonds. The City hereby appoints the Paying Agents and Registrars as its respective agents to maintain such offices or agencies for the payment of Bonds, as may be stipulated in any Series Ordinance.

704. Further Assurance. At any time and all times the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, assets and revenues herein pledged or assigned, or intended so to be, or which the City may hereafter become bound to pledge or assign.

705. Powers as to Bonds and Pledge. The City is duly authorized pursuant to law to authorize and issue the Bonds and to adopt the Ordinance and to pledge the income, revenues and assets pledged by the Ordinance in the manner and to the extent provided in the Ordinance. The income, revenues and assets so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created by the Ordinance, and all official action on the part of the City to that end has been duly and validly taken. The Bonds and the provisions of the Ordinance are and will be the valid and legally enforceable special obligations of the City in accordance with their terms and the terms of the Ordinance. The City shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the income, revenues and assets pledged under the Ordinance and all the rights of the Bondholders under the Ordinance against all claims and demands of all persons whomsoever.

706. Tax Covenant. In the event the City issues Bonds which are intended to be excludable from gross income for federal income tax purposes, the City shall at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure such exclusion. Further covenants of the City regarding federal tax requirements shall, if applicable, be set forth in the applicable Series Ordinance.

707. Accounts and Reports. The City shall at all times keep, or cause to be kept, proper books of record and account in which complete and accurate entries shall be made of all its transactions relating to the System, and all Funds and Accounts established by this Ordinance, which shall at all reasonable times be subject to the inspection of the Holders of an aggregate of not less than five percent (5%) in principal amount of bonds then Outstanding or their representatives duly authorized in writing.

708. General Compliance With All Duties. The City shall faithfully and punctually perform all duties with reference to said System required by the Constitution and laws of the Commonwealth of Kentucky, Chapter 58 and Sections 96.350 to 96.510, inclusive, of the Kentucky Revised Statutes, and by the terms and provisions of the General Bond Ordinance.

709. Operation and Maintenance; No Free Service. The City shall at all times lawfully maintain and operate said System and all extensions thereto on a revenue-producing basis, and will provide no free water services to any person. From and after the issuance of any Bonds, the City will not initiate and commence service to any person without charging in full for services rendered in accordance with its prescribed and current schedule of rates, rentals and charges. The City shall further maintain the said System in good condition through application of Pledged Receipts accumulated and set aside for operation and maintenance, as provided in the Ordinance; and will make unusual or extraordinary repairs, renewals and replacements, as the same may be required, through application of Pledged Receipts accumulated and set aside for such purposes.

710. System Not To Be Disposed Of. The City covenants and agrees that, so long as any Bonds are Outstanding, it will not sell, mortgage, or in any manner dispose of, or surrender control or otherwise dispose of any of the facilities of the System or any part thereof (except that the City may retire obsolete and worn out facilities, and sell same, if appropriate), depositing the sale price to the funds maintained by the City for replacements and extension of the System; and, except as provided for in the Ordinance, it will not create or permit to be created any charge or lien on the Pledged Receipts ranking equal or prior to charge, or lien of the Bonds.

711. Rates and Charges; Coverage; Annual Budget. The City shall at all times establish, enforce and collect rates, rentals, and charges for services rendered and facilities afforded by said City works and facilities constituting the System; and the same shall be reasonable and just, taking into account and consideration the cost and value of the System, the costs of operating the same and maintaining the same in a good state of repair, proper and necessary allowances for depreciation and for additions and extensions, and the amounts necessary for the orderly retirement of all Outstanding Bonds and Subordinated Debt and the accruing interest thereon, and the accumulation and maintenance of reserves as provided in the Ordinance; and such rates and charges shall be adequate to meet all such requirements as provided in the Ordinance, and shall, if necessary, be adjusted from time to time in order to comply therewith (subject to such regulatory approvals as may be required by law); and annual revenue from such rates, rentals and charges shall be further adequate to provide, after accumulation and maintenance of all reserves required by the Ordinance, and after payment of Operation and Maintenance Costs as provided in the Annual Budget of the System (a) 1.25 times coverage of annual principal, interest, and Sinking Fund requirements on all Bonds and (b) 1.10 times coverage of annual principal, interest, and Sinking Fund requirements on all Bonds and

Subordinated Debt, and shall, if necessary, be adjusted from time to time in order to comply herewith.

On or before the first day of each Fiscal Year, so long as any Bonds authorized or permitted to be issued by the General Bond Ordinance are Outstanding, the City will adopt an Annual Budget of Current Expenses for the ensuing fiscal year, and will promptly file a copy of each such Budget, and of any amendments thereto, in the Office of the City Clerk of the City, and will furnish copies thereof to any holder of any Bond upon request. The term "Current Expenses" as herein used, includes all reasonable and necessary costs of operating, repairing, maintaining and insuring the System, allowances for depreciation on all plant facilities, but shall exclude expenditures for extensions, improvements and extraordinary repairs and maintenance, and payments into the Debt Service Fund, and the Debt Service Reserve. The City covenants that the Current Expenses incurred in any year will not exceed the reasonable and necessary amounts therefore, and that it will not expend any amount or incur any obligations for operation, maintenance and repairs in excess of the total amount provided for Current Expenses in the Annual Budget, except upon resolution duly adopted by the Board determining that such expenses are necessary in order to operate and maintain the System. At the same time, and in like manner, the City agrees that it will prepare an estimate of gross income and revenue to be derived from operation of the System for such calendar year, and to the extent that said gross income and revenues are insufficient to meet all requirements as provided in this General Bond Ordinance, the City covenants and agrees that it will immediately (subject to regulatory approvals as required by law) revise its rates, rentals and charges for services rendered by the City's works and facilities, so that the same will be adequate to meet all of such requirements.

712. No Decrease in Rates, Rentals and Charges. The City shall not at any time make any reduction in any prevailing schedule of rates, rentals and charges for use of the services and facilities of the City without first obtaining the written determination of a Consulting Engineer of National Recognition in the field of water system engineering to the effect that the proposed reduction will not adversely affect the ability of the City to meet all the requirements and covenants set forth in this General Bond Ordinance.

713. Segregation of Funds. The City shall at all times account for the income and revenues of the System and distinguish same from all other revenues, moneys and funds of the City, if any, and will promptly and regularly make application and distribution thereof into the special funds identified in and created by the Ordinance, in the manner and with due regard for the priorities herein attributed thereto.

714. Annual Audit Required. The City shall, within sixty (60) days after the end of each Fiscal Year, cause an audit to be made of the books of record and account pertinent to the System, and a report on such audit to be issued by an independent certified public accountant, reflecting in reasonable detail the financial condition and results of operations of the System, including the status of the required insurance and fidelity bonding, as provided by this General Bond Ordinance, the current rates, rentals and charges of the City and coverage ratios as set forth in Section 711 hereof, with comments of the certified public accountant concerning compliance with all provisions and requirements of this General Bond Ordinance, such audit to be in accordance with generally accepted governmental accounting principles, and will promptly cause a copy of the audit report of said certified public accountant to be submitted to the Board for

review, and when received and approved by the Board, to be filed in the Office of the City Clerk of the City, where it will be available for public inspection, and will promptly mail a copy thereof to the original purchaser or purchasers of any Series of Bonds issued pursuant to this General Bond Ordinance and to any rating agency then rating any Bonds. If requested to do so, the City will furnish to any Bondholder a condensed form of the balance sheet, and a condensed form of the operating report, in reasonable detail. All expenses incurred in causing such audits to be made, and copies distributed, shall constitute proper expenses of operating and maintaining the System, and may be paid from Revenues allocated for such purposes, as herein provided.

715. Fidelity Bonding of Personnel. The City shall cause each officer or other person (other than depository banks) having custody of any moneys administered under the provisions of the Ordinance to be bonded at all times in an amount at least equal to \$50,000; each such bond to have surety given by a surety corporation qualified to do business in Kentucky and approved by the Board, and the premiums for such surety shall constitute a proper expense of operating the System.

716. Insurance of Facilities. The City covenants and agrees that so long as any Bonds are Outstanding, it will keep all buildings and all machinery and equipment therein constituting a part of the System and, to the extent possible, all other facilities of the System which are insurable, insured against loss or damage by fire, lightning, windstorm, vandalism and malicious mischief, together with coverage against the perils normally and regularly insured against in standard "extended coverage" protection, under a policy or policies of a responsible insurance company or companies authorized and qualified under the laws of Kentucky to assume such risks. Coverage of such insurance shall be for not less than ninety percent (90%) of the insurable value, or the total principal amount of Bonds Outstanding, whichever sum is the lesser, subject to the deduction from such loss or damage (except in the case of a total loss) of not more than such deductibles which are customarily maintained by utility districts which are similar to the City.

717. Liability Coverage Required. The City shall carry public liability, vehicular insurance, and property damage insurance covering such risks and for such amounts as the Board determines from time to time to be necessary or advisable by reason of the character and extent of operations of the City. However, at a minimum, the City shall carry such insurance insuring the City against losses occasioned by bodily injury and in respect of property damage in amounts which are customarily maintained by utility districts which are similar to the City. If obtainable, the City may (but need not) carry loss of use and occupancy insurance, and war risk insurance. The proceeds of any and all such insurance, other than public liability and property damage, are hereby pledged as security for the Bonds issued pursuant to the Ordinance until such proceeds are paid out in making good the loss or damage in respect of which such proceeds are received, by repairing or replacing the property damaged or destroyed.

718. System Improvements To Be Expeditiously Completed. When any Series of Bonds are issued, the City shall cause the work thereby to be acquired to be constructed and installed as rapidly and expeditiously as good business practice dictates, and will use and employ its best efforts to prevent delay in the prompt fulfillment of any such work.

719. Personnel and Servicing of Program.

(1) The City shall at all times appoint, retain and employ personnel for the purposes of administering and managing the System and shall establish and enforce reasonable rules, regulations, tests and standards governing the employment of such personnel at reasonable compensation, salaries, fees and charges and all persons employed by the City shall be qualified for their respective positions.

(2) The City may pay to any state agency, municipality, political subdivision or governmental instrumentality of the state from the Operation and Maintenance Fund such amounts as are necessary to reimburse such state agency, municipality, political subdivision or governmental instrumentality of the state for the reasonable costs of any services performed for and on behalf of the City, if any.

(3) The City shall in a timely manner file all reports as may, from time to time be required by law, and shall prepare and file such other reports and documents as shall in the future be required by law, including administrative regulations promulgated by any agency of the federal government or the Commonwealth of Kentucky having jurisdiction.

720. Compliance With Conditions Precedent. Upon the date of issuance of any of the Bonds, all conditions, acts and things required by law or by the General Bond Ordinance or a Series Ordinance to exist, to have happened or to have been performed precedent to or in the issuance of such Bonds, shall exist, shall have happened and shall have been performed, or will have happened or been performed, and such Bonds, together with all other indebtedness of the City, shall be within every debt and other limit prescribed by law.

721. General. The City shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the City under the provisions of the Act and the General Bond Ordinance in accordance with the terms of such provisions.

722. Waiver of Laws. The City shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of any stay or extension law now or at any time hereafter in force which may affect the covenants and agreements contained in this Ordinance or in any Series Ordinance or Supplemental Ordinance or in the Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the City.

723. Termination of Services to Delinquent Users. The City covenants and agrees that it shall, pursuant to the provisions of the Act and any other applicable provisions of law, to the maximum extent authorized by law enforce and collect the schedule of rates, rentals and charges imposed upon users of the City's works and facilities constituting the System, and will promptly cause service to be discontinued to any premises where such City bill for such facilities and services shall not be paid in full.

724. Extension of Payment of Bonds. The City shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any of the claims for interest by the purchase or funding of such Bonds or claims for interest, or by any other arrangement and in case the maturity of any of the Bonds or the time for payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled

in case of any default under the General Bond Ordinance to the benefit of the General Bond Ordinance or to any payment out of any assets of the City or the funds (except funds held in trust for the payment of particular Bonds or claims for interest pursuant to the General Bond Ordinance) held by any Fiduciary except subject to the prior payment of the principal of all Bonds issued and Outstanding, the maturity of which has occurred and has not been extended and of such portion of the accrued interest on the Bonds as shall not be represented by such extended claims for interest. Nothing herein shall be deemed to limit the right of the City to issue bonds as provided in this General Bond Ordinance, and such issuance shall not be deemed to constitute an extension of the maturity of any Bond or of the time of payment of any claim for interest.

725. Statutory Mortgage Lien. For the further protection of the holders of the Bonds authorized to be issued by this General Bond Ordinance, a statutory mortgage lien upon all properties constituting the System and extensions thereof and belonging thereto is granted and created by Chapter 58 and Section 96.400 of the Kentucky Revised Statutes, which said mortgage lien is hereby recognized and declared to be valid and binding upon the City and all property constituting the System as provided by law, and shall take effect immediately upon the delivery of any Bonds authorized to be issued under the provisions of this General Bond Ordinance.

726. Effect of Defeasance. From and after the defeasance of any Outstanding Bonds, the General Bond Ordinance shall not govern the issuance of Bonds of the City.

[End of Article VII]

**ARTICLE VIII**  
**SERIES ORDINANCE AND SUPPLEMENTAL ORDINANCES**

801. Modification and Amendment Without Consent. Notwithstanding any other provision of this Article VIII, or Article IX, the City may adopt at any time or from time to time Series Ordinances or Supplemental Ordinances for any one or more of the following purposes, and any such Series Ordinance or Supplemental Ordinance shall become effective in accordance with its terms upon the filing thereof in the City's official records, certified by an Authorized Officer:

- (1) To add additional covenants and agreements of the City for the purpose of further securing the payment of the Bonds, provided such additional covenants and agreements are not contrary to or inconsistent with the covenants and agreements of the City contained in this General Bond Ordinance;
- (2) To prescribe further limitations and restrictions upon the issuance of Bonds and the incurring of indebtedness by the City which are not contrary to or inconsistent with the limitations and restrictions thereon theretofore in effect;
- (3) To surrender any right, power or privilege reserved to or conferred upon the City by the terms of this General Bond Ordinance, provided that the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the City contained in this General Bond Ordinance;
- (4) To confirm as further assurance any pledge under and the subjection to any lien, claim or pledge created or to be created by the provisions of this General Bond Ordinance;
- (5) To modify any of the provisions of this General Bond Ordinance or any Series Ordinance in any other respects, provided that such modifications shall not be effective until after all Bonds of any Series of Bonds Outstanding as of the date of execution and delivery of such Supplemental Ordinance shall cease to be Outstanding, and all Bonds issued under such Series Ordinances shall contain a specific reference to the modifications contained in such subsequent Series Ordinances;
- (6) To cure any ambiguity or defect or inconsistent provision in this General Bond Ordinance or to insert such provisions clarifying matters or questions arising under this General Bond Ordinance or any Series Ordinance as are necessary or desirable in the event any such modifications are not contrary to or inconsistent with this General Bond Ordinance or any Series Ordinance as theretofore in effect;
- (7) To conform any requirements hereunder to the requirements of a Securities Depository; or
- (8) For any other purpose provided that any such amendment or modification does not materially adversely affect the rights of Bondholders affected hereby.



A Supplemental Ordinance for the purposes described in this Section shall be effective upon the execution thereof by the City.

802. Supplemental Ordinances Effective With Consent Of Bondholders. The provisions of this General Bond Ordinance may also be modified or amended at any time or from time to time by a Supplemental Ordinance, subject to the consent of Bondholders, in accordance with and subject to the provisions of Article IX hereof, such Supplemental Ordinance to become effective upon the obtaining of consent of the requisite percentages of Bondholders and the filing in the City's official records of a copy thereof certified by an Authorized Officer.

803. General Provisions Relating to Series Ordinances and Supplemental Ordinances. This General Bond Ordinance shall not be modified or amended in any respect except in accordance with and subject to the provisions of this Article VIII and Article IX. Nothing contained in this Article VIII or Article IX shall affect or limit the rights or obligations of the City to adopt, make, do, execute or deliver any resolution, act or other instrument pursuant to the provisions of Section 704 or the right or obligation of the City to execute and deliver to any Fiduciary any instrument elsewhere in this General Bond Ordinance provided or permitted to be delivered to any such Fiduciary.

A copy of every Series Ordinance and Supplemental Ordinance adopted by the City when filed with the City's official records shall be accompanied by a Counsel's Opinion stating that such Series Ordinance or Supplemental Ordinance has been duly and lawfully adopted in accordance with the provisions of this Ordinance, is authorized or permitted by this General Bond Ordinance and is valid and binding upon the City and enforceable in accordance with its terms.

No Series Ordinance or Supplemental Ordinance changing, amending or modifying any of the rights or obligations of any Fiduciary may be adopted by the City without the written consent of the Fiduciary affected thereby.

[End of Article VIII]

**ARTICLE IX**  
**GENERAL BOND ORDINANCE - FURTHER PROVISIONS**

901. Modification or Amendment. Any modification or amendment of this General Bond Ordinance and of the rights and obligation of the City and of the Holders of the Bonds hereunder, in any particular, may be made by a Supplemental Ordinance, with the written consent given as hereinafter provided in Section 902, (1) of the Holders of at least two-thirds in principal amount of the Bonds Outstanding at the time such consent is given (2) in cases where less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of at least two-thirds in principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given, or (3) in case the modification or amendment changes the amount or date of any Sinking Fund Installment of the Holders of at least two-thirds in principal amount of the Bonds of the particular Series, maturity and interest rate entitled to such Sinking Fund Installment Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section; and provided, further, no such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of this General Bond Ordinance if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The City may in its discretion determine whether or not, in accordance with the foregoing provisions, Bonds of any particular Series or maturity would be adversely affected by any modification or amendment of this General Bond Ordinance and any such determination shall be binding and conclusive on the City and all Holders of Bonds. The City may receive an opinion of Counsel, including Counsel's Opinion, as conclusive evidence as to whether Bonds of any particular Series or maturity would be so affected by any such modification or amendment of this General Bond Ordinance.

902. Consent of Bondholders. The City may at any time adopt a Supplemental Ordinance making a modification or amendment permitted by the provisions of Section 901 to take effect when and as provided in this Section. A copy of such Supplemental Ordinance (or brief summary thereof or reference thereto) together with a request to Bondholders for their consent thereto, shall promptly after adoption be mailed by the City to Bondholders (but failure to mail such copy and request shall not affect the validity of the Supplemental Ordinance when consented to as in this Section provided). Such Supplemental Ordinance shall not be effective unless and until (1) there shall have been filed with the City (a) the written consents of the Holders of the percentages of Outstanding Bonds specified in Section 901 and (b) a Counsel's Opinion stating that such Supplemental Ordinance has been duly and lawfully adopted by the City in accordance with the provisions of this Ordinance, is authorized or permitted by this Ordinance, and is valid and binding upon the City and enforceable in accordance with its terms.

Each such consent shall be effective only if accompanied by proof of the holding at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 1202. Any such consent shall be binding upon the Holder of the Bonds giving such consent and, anything in Section 1202 to the contrary notwithstanding, upon any subsequent Holder of such Bonds and of any Bonds issued in exchange thereof (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the holder of such Bonds giving such consent or a subsequent Holder thereof by filing with the City, such revocation and, if such Bonds are transferable by delivery, proof that such Bonds are held by the signer of such revocation in the manner permitted by Section 1202. The fact that a consent has not been revoked may likewise be proved by a certificate of the City to the effect that no revocation thereof is on file with the City. At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Ordinance, the City shall make and file (a) in the official records of the City, accompanied by a Counsel's Opinion, as to the quality thereof, and (b) with each Fiduciary a written statement that the Holders of such required percentages of Bonds have filed such consents. Such written statement shall be conclusive that such consents have been filed. At any time thereafter, notice, stating in substance that the Supplemental Ordinance (which may be referred to as a Supplemental Ordinance adopted by the City on a stated date) has been consented to by the Holders of the required percentages of Bonds and will be effective as provided in this Section, shall be given to Bondholders by the City by mailing such notice to Bondholders (but failure to mail such notice shall not prevent such Supplemental Ordinance from becoming effective and binding as in this Section provided) not more than ninety (90) days after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Ordinance and the written statements of the Trustee hereinabove provided for are filed. Such Supplemental Ordinance making such amendment or modification shall be deemed conclusively binding upon the City, each Fiduciary and the Holders of all Bonds, at the expiration of thirty (30) days after the filing with each Fiduciary of the proof of the first publication of such last mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Ordinance in a legal action or equitable proceeding for such purpose commenced within such thirty (30) day period; provided, however, that the City during such thirty (30) day period and any such further period during which any such action or proceeding may be pending shall be entitled in its reasonable discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Ordinance as they may deem expedient.

903. Mailing. Any provision in this Article for the mailing of a notice or other document to Bondholders shall be fully complied with if it is mailed postage prepaid to each Holder of Bonds then Outstanding at his address appearing upon the registry books of the Registrar.

904. Modifications By Unanimous Action. Notwithstanding anything contained in Article VIII or in the foregoing provisions of this Article IX, the rights and obligations of the City and of the Holders of the Bonds and the terms and provisions of the Bonds or of this Ordinance may be modified or amended in any respect upon the adoption of a Supplemental Ordinance by the City and the consent of the Holders of all of the Bonds then Outstanding, such consent to be given as provided in Section 902 except that no notice to Bondholders by mailing shall be required; provided, however, that no such modification or amendment shall change or

modify any of the rights or obligations of any Fiduciary without its written assent thereto in addition to the consent of the City and of the Bondholders.

905. Exclusion of Bonds. Bonds owned or held by or for the account of the City shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this General Bond Ordinance, and the City shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this General Bond Ordinance.

906. Notation On Bonds. Bonds authenticated and delivered after the effective date of any action taken as in Article VIII or this Article IX provided may bear a notation by endorsement or otherwise in form approved by the City as to such action, and in that case upon demand of the Holder of any Bond Outstanding at such effective date and upon presentation of his Bond for such purpose at the principal office of any Paying Agent, suitable notation shall be made on such Bond by such Paying Agent as to any such action. If the City shall so determine, new Bonds so modified as in the opinion of the City to conform to such action shall be prepared and delivered, and upon demand of the Holder of any Bond then Outstanding shall be exchanged, without cost to such Bondholder, for Bonds of the same Series and maturity then Outstanding, upon surrender of such Bonds.

907. Contracts or Indentures. The City, in so far as authorized by law, may and if requested by any Fiduciary shall, enter into a contract or an indenture with any Fiduciary giving effect to any modification or amendment of the Bonds or of the Ordinance as hereinabove in this Article IX provided.

[End of Article IX]

**ARTICLE X  
DEFAULTS AND REMEDIES**

1001. Events of Defaults. Each of the following events is hereby declared as "Event of Default," that is to say if:

- (1) the City shall default in the payment of the principal of or Redemption Price, if any, on any Bond when and as the same shall become due, whether at maturity or upon call for redemption or otherwise;
- (2) payment of any installment of interest on any of the Bonds shall not be made when and as the same shall become due; or
- (3) the City shall fail or refuse to comply with the provisions of the Act, or shall default in the performance or observance of any other of the covenants, agreements or conditions on its part contained in this Ordinance, any Series Ordinance, any Supplemental Ordinance or the Bonds, and such failure, refusal or default shall continue for a period of forty-five (45) days after written notice thereof by the Holders of not less than five percent (5%) in principal amount of the Outstanding Bonds.

1002. Remedies. (1) Upon the happening and continuance of any Event of Default, the Holders of not less than twenty-five percent (25%) in principal amount of the Outstanding Bonds, may proceed, in their own name, subject to the provisions of this Section 1002, to protect and enforce the rights of the Bondholders by such of the following remedies, as such Bondholders, being advised by counsel, shall deem most effectual to protect and enforce such rights:

- (a) by mandamus or other suit, action or proceeding at law or in equity, to enforce all rights of the Bondholders, including (subject to regulatory requirements) the right to require the City to adopt, enforce, collect and receive utility rates, rentals and charges adequate to carry out the covenants and agreements of the City in respect of production of minimum Revenues and to require the City to carry out any and all other covenants or agreements with Bondholders and to perform its duties under the Act;
- (b) by bringing suit upon the Bonds;
- (c) by action or suit in equity, require the City to account as if it were the trustee of an express trust for the Holders of the Bonds;
- (d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Bonds;
- (e) by action or suit in equity, seek the appointment of a receiver who shall take charge of and administer the affairs of the City;
- (f) by declaring all Bonds due and payable, and if all defaults shall be made good (excepting that in respect of acceleration of maturities), then, with the

written consent of the Holders of not less than twenty-five percent (25%) in principal amount of the Outstanding Bonds, by annulling such declaration and its consequences; or

(g) in the event that all Bonds are declared due and payable and a receiver is appointed, by selling Investment Obligations and all other assets of the City (to the extent not theretofore set aside for redemption of Bonds for which call has been made), and by the taking over by the receiver of the System, and operating same as an adequate revenue-generating operation to the fullest legal extent in the name of the City for the use and benefit of the Holders of Bonds;

(2) In the enforcement of any rights and remedies under this General Bond Ordinance, the Bondholders shall be entitled to sue for, enforce payment on and receive any and all amounts then or during any default becoming, and at any time remaining, due from the City for principal, Redemption Price, interest or otherwise, under any provision of this General Bond Ordinance or a Series Ordinance or of the Bonds, and unpaid, with interest on overdue payments at the rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection and of all proceedings hereunder and under such Bonds, without prejudice to any other right or remedy of the Bondholders, and to recover and enforce a judgment or decree against the City for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect from any moneys available for such purposes, in any manner provided by law, the moneys adjudged or decreed to be payable.

1003. Priority of Payments After Default. In the event that upon the happening and continuance of any Event of Default, the funds held by the Paying Agents shall be insufficient for the payment of principal or Redemption Price, if any, and interest then due on the Bonds, such funds (other than funds held for the payment or redemption of particular Bonds which have theretofore become due at maturity or by call for redemption) and any other moneys received or collected by the City acting pursuant to the Act and this Article X, after making provision for the payment of any expenses necessary in the opinion of the City to protect the interests of the Holders of the Bonds, and for the payment of the charges and expenses and liabilities incurred and advances made by any Registrar and any Paying Agents in the performance of their respective duties under this General Ordinance, shall be applied, as follows:

(1) Unless the principal of all of the Bonds shall have become or have been declared due and payable:

FIRST: To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment, then to the payment thereof ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference; and

SECOND: To the payment to the persons entitled thereto of the unpaid principal or Redemption Price of any Bonds which shall have become due, whether at maturity or by a call for redemption, in the order of their due dates and, if the

amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal or Redemption Price, if any, due on such date, to the persons entitled thereto, without any discrimination or preference.

(2) If the principal of all of the Bonds shall have become or have been declared due and payable, and such declaration shall not have been annulled, then, to the payment of the principal and interest then due and unpaid upon the Bonds without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds.

Whenever moneys are to be applied by the City pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for application in the future. The deposit of such moneys with the Paying Agents, or otherwise setting aside such moneys in trust for the proper purposes, shall constitute proper application, and the representative Bondholders or receiver shall incur no liability whatsoever, to any Bondholder or to any other person for any delay in applying any such moneys, so long as the representative Bondholders or receivers act with reasonable diligence, having due regard for the circumstances, and ultimately apply the same in accordance with such provisions of this Ordinance as may be applicable at the time of application. Wherever the representative Bondholders or the receiver shall exercise such discretion in applying such moneys, it shall fix the date (which shall be an Interest Payment Date unless the representative Bondholders or the receiver shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The representative Bondholders or the receiver shall give such notice as it may deem appropriate for the fixing of any such date. The representative Bondholders or the receiver shall not be required to make payment to the Holder of any Bond unless such Bond shall be presented to the appropriate Paying Agent for appropriate endorsement or for cancellation if fully paid.

1004. Termination of Proceedings. In case any proceedings taken on account of any Event of Default shall have been discontinued or abandoned for any reason, then in every such case the City and the Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Bondholders shall continue as though no such proceeding had been taken.

1005. Bondholders' Direction of Proceedings. Anything in this General Bond Ordinance to the contrary notwithstanding, the Holders of the majority in principal amount of the Bonds then Outstanding shall have the right by an instrument or concurrent instruments in writing executed and delivered to the City, to direct the method of conducting all remedial proceedings to be taken hereunder, provided that such direction shall not be otherwise than in accordance with law or the provisions of this Ordinance.

1006. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Holders of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

1007. No Waiver of Default. No delay or omission of the Holder of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this General Bond Ordinance to the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

1008. Notice of Event of Default. The City shall cause the appropriate Registrar to give to the Bondholders notice of each Event of Default hereunder known to the City within sixty (60) days after knowledge of the occurrence thereof, unless such Event of Default shall have been remedied or cured before the giving of such notice. Each such notice of Event of Default shall be given by mailing written notice thereof: (1) to all Holders of Bonds, as the name and addresses of such Holders appear upon the books for registration and transfer of Bonds as kept by the Registrar and (2) to such other persons as is required by law.

[End of Article X]



**ARTICLE XI  
CONCERNING THE FIDUCIARIES**

1101. Appointment and Acceptance of Duties of Paying Agents and Registrars. The City may appoint one or more Paying Agents and one or more Registrars (who may be a Paying Agent) for the Bonds of any Series in the Series Ordinance authorizing such Bonds or may appoint such Paying Agent or Paying Agents and such Registrar or Registrars by resolution of the City adopted prior to the authentication and delivery of such Bonds, and may at any time or from time to time appoint one or more other Paying Agents or one or more other Registrars in the manner and subject to the conditions set forth in Section 1107 for the appointment of a Successor Paying Agent or Registrar.

Each Paying Agent or Registrar shall signify its acceptance of the duties and obligations imposed upon it by this General Bond Ordinance by written instrument of acceptance executed and delivered to the City.

The principal offices of the Paying Agents are hereby designated as the respective agencies of the City for the payment of the interest on and principal or Redemption Price of the Bonds.

The City shall enter into an agreement for paying agent and for registrar for each issue of Series Bonds.

1102. Responsibility of Fiduciaries. The recitals of fact herein and in the Bonds contained shall be taken as the statements of the City and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or sufficiency of this General Bond Ordinance or of any Bonds issued thereunder or in respect of the security afforded by this General Bond Ordinance, and no Fiduciary shall incur any responsibility in respect thereof. Each Registrar shall, however, be responsible for its representation contained in its certificate on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the issuance of the Bonds for value or the application of the proceeds thereof or the application of any moneys paid to the City. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof, or to advance any of its own moneys, unless properly indemnified. No Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence or default. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid to any one of the other Fiduciaries.

1103. Evidence on Which Fiduciaries May Act. Each Fiduciary shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document believed by it to be genuine, and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not be of counsel to the City, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith. Whenever any Fiduciary shall deem it necessary or desirable that a matter

be proved or established prior to taking or suffering any action hereunder, including payment of moneys out of any Fund or Account, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by an Authorized Officer, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this General Bond Ordinance upon the faith thereof, but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidences as to it may seem reasonable. Except as otherwise expressly provided herein, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the City to any Fiduciary shall be sufficiently executed if executed in the name of the City by an Authorized Officer.

1104. Compensation. The City shall pay to each Paying Agent, Registrar and other Fiduciary from time to time reasonable compensation for all services rendered under this General Bond Ordinance, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents and employees, incurred in and about the performance of their powers and duties under this General Bond Ordinance. The City further agrees to indemnify each Paying Agent, Registrar and other Fiduciary harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder, and which are not due to its negligence or default.

1105. Permitted Acts and Functions. Each Paying Agent, Registrar and any other Fiduciary may become the owner of any Bonds, with the same rights it would have if it were not such Paying Agent, Registrar or other Fiduciary. Each Paying Agent, Registrar and any other Fiduciary may act as Depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this General Bond Ordinance, whether or not any such committee shall represent the Holders of a majority in principal amount of the Bonds then Outstanding.

1106. Consolidation. Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all of substantially all of its corporate trust business, provided such company shall be a trust company or bank which is qualified to be a successor to such Fiduciary under Section 1110 or Section 1113 and shall be authorized by law to perform all the duties imposed upon it by this General Bond Ordinance, shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act, anything herein to the contrary notwithstanding.

1107. Resignation or Removal of the Paying Agents, Registrars and Other Fiduciaries and Appointment of Successors. Any Paying Agent, Registrar or other Fiduciary may at any time resign and be discharged of the duties and obligations created by this General Bond Ordinance by giving at least sixty (60) days' written notice to the City. Any Paying Agent, Registrar or other Fiduciary may be removed at any time by an instrument filed with such Paying Agent, Registrar or other Fiduciary and signed by an Authorized Officer of the City. Any successor Paying Agent, Registrar or other Fiduciary shall be appointed by the City and (subject

to the requirements of Section 703) shall be a trust company or bank having the powers of a trust company, having a capital and surplus aggregating at least Twenty-Five Million Dollars (\$25,000,000), and willing and able to accept the office of Paying Agent or Registrar on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this General Bond Ordinance.

In the event of the resignation or removal of any Paying Agent, Registrar or other Fiduciary, such Paying Agent, Registrar or other Fiduciary shall pay over, assign and deliver any moneys held by it to its successor, if there be no successor then appointed, to the City until such successor be appointed.

[End of Article XI]

**ARTICLE XII  
MISCELLANEOUS**

1201. Defeasance. (1) If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Bonds, all of the principal and interest and Redemption Price, if any, to become due thereon, at the times and in the manner stipulated therein and in this General Bond Ordinance, then and in that event the General Bond Ordinance shall cease, determine, and become null and void, and the covenants, agreements and other obligations of the City hereunder shall be satisfied and discharged, and in such event, the City shall execute and deliver all such instruments as may be desirable to evidence such discharge and satisfaction and the Fiduciaries shall pay over or deliver to the City all moneys or securities held by them pursuant to the General Bond Ordinance which are not required for the payment or redemption of Bonds, not theretofore surrendered for such payment or redemption.

(2) Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and which shall be held in trust by Fiduciaries (through deposit by the City of funds for such payment or redemption or otherwise) shall, at the maturity or Redemption Date thereof, be deemed to have been paid within the meaning and with the effect expressed in subsection (1) of this Section. All Outstanding Bonds shall, prior to the maturity or Redemption Date thereof, be deemed to have been paid within the meaning and with the effect expressed in subsection (1) of this Section if (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the City shall have given notice of redemption on said date of Redemption of such bonds as provided in Article VI or shall have provided for the giving of such notice at the appropriate time, and (b) there shall have been deposited with the Paying Agents either moneys in an amount which shall be sufficient, or Defeasance Obligations, the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same time, shall be sufficient to pay when due the principal or Redemption Price, if any, and interest due and to become due on said Bonds on and prior to the Redemption Date or maturity date thereof, as the case may be. Neither Defeasance Obligations nor moneys deposited with the Paying Agents pursuant to this Section nor principal or interest payments on any such Defeasance Obligations shall be withdrawn or used for any purposes other than, and shall be held in trust for, the payment of the principal or Redemption Price, if any, and interest on said Bonds; provided that any cash received from such principal or interest payments on such Defeasance Obligations deposited with the Paying Agent if not then needed for such purposes, shall, to the extent practicable, be reinvested in Defeasance Obligations maturing at times and in amounts sufficient to pay when due the principal or Redemption Price, if any, and interest to become due on said Bonds on and prior to such Redemption Date or maturity date thereof, as the case may be, and shall be paid over to the City, following full discharge and payment of such Bonds free and clear of any trust, lien or pledge.

(3) If, through the deposit of moneys by the City or otherwise, the Fiduciaries shall hold, pursuant to this General Bond Ordinance, moneys sufficient to pay the principal and interest to maturity on all Outstanding Bonds, or in the case of Bonds in respect of which the City shall have taken all action necessary to redeem prior to maturity, sufficient to pay the Redemption Price and Interest to such Redemption Date, then at the request of the

City all moneys held by and Paying Agent shall be paid over to the City, and together with other moneys held by it hereunder, shall be held by the City for the payment or redemption of Outstanding Bonds.

(4) Anything in this General Bond Ordinance to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any of the Bonds which remain unclaimed for six (6) years after the date when all of the Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Fiduciary at such date, or for six (6) years after the date of deposit of such moneys if deposited with the Fiduciary after the said date when all of the Bonds became due and payable, shall, at the written request of the City, be repaid by the Fiduciary to the City, as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged; provided, however, that before being required to make any such payment to the City, the Fiduciary shall, at the expense of the City, cause to be published at least twice, at an interval of not less than seven (7) days between publications, in the Authorized Newspapers notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than ten (10) nor more than twenty (20) days after the date of the first publication of such notice, the balance of such moneys then unclaimed will be returned to the City.

1202. Evidence of Signatures of Bondholders and Ownership of Bonds. Any request, consent or other instrument which this General Bond Ordinance may require or permit to be signed and executed by the Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their authorized attorneys: Proof of (1) the execution of any such instruments, or of an instrument appointing any such attorney, or (2) the holding by any person of the Bonds, shall be sufficient for any purpose of the General Bond Ordinance (except as otherwise expressly provided) if made in the following manner, but the City may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

The fact and date of the execution by any Bondholder or his attorney of such instrument may be proved by the certificate, which need not be acknowledged or verified, of an officer of a bank or trust company satisfactory to the City or of any notary public or other officer authorized to take acknowledgements of deeds to be recorded in the state in which he purports to act, that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The authority of the person or persons executing any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice president of such corporation with a corporate seal affixed and attested by a person purporting to be its secretary or an assistant secretary.

Any request, consent or vote of the owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done by the City or any Fiduciary in accordance therewith.

1203. Preservation and Inspection of Documents. All documents received by any Fiduciary under the provisions of this General Bond Ordinance or any supplemental General

Bond Ordinance or Series Ordinance shall be retained in its possession and shall be subject at all reasonable times to the inspection of the City, any other Fiduciary and any Bondholder and their agents and their representatives, any of whom may make copies thereof.

1204. Parties in Interest. Nothing in this General Bond Ordinance or in any Series Ordinance adopted pursuant to the provisions hereof, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or party other than the City, Paying Agents, Registrars and the Holders of the Bonds any rights, remedies or claims under or by reason of this General Bond Ordinance or any Series Ordinance or any covenants, conditions or stipulations thereof; and all covenants, stipulations, promises and agreements in this General Bond Ordinance and any Series Ordinance contained by or on behalf of the City shall be for the sole and exclusive benefit of the City, Paying Agents, Registrars and the Holders from time to time of the Bonds.

1205. No Recourse Under General Bond Ordinance or on Bonds. All covenants, stipulations, promises, agreements and obligations of the City contained in this General Bond Ordinance shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any member, officer, director or employee of the City in his individual capacity, and no recourse shall be had for the payment of the principal or Redemption Price of or interest on the Bonds or for any claim based thereon or on this General Bond Ordinance against any member, officer, director or employee of the City or any natural person executing the Bonds.

1206. Severability. If any one or more of the covenants, stipulations, promises, agreements or obligations provided in this General Bond Ordinance on the part of the City or any Paying Agent or any Registrar to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, stipulation or stipulations, promise or promises, agreement or agreements, obligation or obligations shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, agreements and obligations herein contained and shall in no way affect the validity of the other provisions of this General Bond Ordinance.

1207. Headings. Any headings preceding the texts of the several Articles and Sections hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this General Bond Ordinance, nor shall they affect its meaning, construction or effect.

1208. Conflicts. All General Bond Ordinances and resolutions or parts of General Bond Ordinances and resolutions, or other proceedings of the City in conflict herewith be and the same are repealed insofar as such conflict exists.

1209. Effective Date. This General Bond Ordinance shall take effect upon its adoption and publication of a summary hereof, as provided by law.

[End of Article XII]

Introduced and given first reading on \_\_\_\_\_, 2004. Given second reading and adopted on \_\_\_\_\_, 2004.

**CITY OF BERE, KENTUCKY**

By: \_\_\_\_\_  
Mayor

Attest:

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

**CERTIFICATION**

I, the undersigned, the duly appointed and qualified City Clerk of the City of Berea, Kentucky, do hereby certify that the foregoing Ordinance is a true, accurate and complete copy of a certain Ordinance duly adopted by the City Council of said City at a duly and properly convened meeting of said City Council held on \_\_\_\_\_, 2004, on the same occasion signed in open session by the Mayor attested by me as City Clerk, and declared to be in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
City Clerk, City of Berea, Kentucky

28973\1



**“T” - Proposed Rate Ordinance**

**ORDINANCE NO. \_\_\_\_ - 04**

AN ORDINANCE OF THE CITY OF BEREA, KENTUCKY, PROVIDING FOR ADOPTION OF THE CURRENT RATES AND TARIFFS OF THE BEREA COLLEGE ELECTRIC AND WATER UTILITIES EFFECTIVE UPON THE CLOSING DATE OF THE PURCHASE OF SAID UTILITIES.

**WHEREAS**, the City of Berea has negotiated to purchase the water and electric utilities from Berea College; and

**WHEREAS**, the City intends to continue the same rates and tariffs currently approved by the Kentucky Public Service Commission for the Berea College Electric and Water Utilities after the consummation of the purchase;

**NOW, THEREFORE**, the City Council of the City of Berea, Kentucky, does ordain as follows:

**SECTION I**

That the attached current rates and tariffs of the Berea College Electric and Water Utilities be and the same are hereby adopted by the City of Berea as its own rates and tariffs for the operation of the electric and water utilities upon the consummation of the purchase of the assets of same from Berea College; subject, however, to the authority of the Berea City Council, by subsequent ordinance, to revise and amend such rates as may be appropriate for the efficient and proper management of the utilities systems.

**SECTION II**

This Ordinance shall be effective on the date when the City of Berea closes on the purchase, and takes possession of the assets, of the Berea College Water and Electric Utilities.

**SECTION III**

All ordinance or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be published according to law.

FIRST READING: \_\_\_\_\_, 2004.

SECOND READING & ENACTMENT \_\_\_\_\_, 2004.

CITY OF BERE A, KENTUCKY

ATTEST:

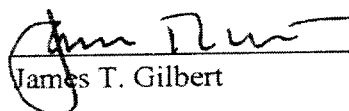
\_\_\_\_\_  
Clerk of the City Council

APPROVED:

\_\_\_\_\_  
Steven Connelly, Mayor

PREPARED BY:

COY, GILBERT & GILBERT  
212 North Second Street  
Richmond, Kentucky 40475  
(859) 623-3877

  
\_\_\_\_\_  
James T. Gilbert