ORDINANCE NO. 87-7

AN ORDINANCE TO AMEND ORDINANCE NO. 310 AND ORDINANCE NO. 311 OF THE CITY OF ATKINS, ARKANSAS, ADOPTED JANUARY 8, 1973, ORDINANCE NO. 317 OF THE CITY OF ATKINS, ARKANSAS, ADOPTED SEPTEMBER 28, 1973, AND ORDINANCE NO. 322 OF THE CITY OF ATKINS, ARKANSAS, ADOPTED AUGUST 6, 1974, TO ALLOW THE ISSUANCE OF BONDS ON A PARITY OF SECURITY WITH THE BONDS AUTHORIZED PURSUANT TO ORDINANCES NO. 310, 311, 317, AND 322; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Atkins, Arkansas (the "City"), a city of the first class of the State of Arkansas, has undertaken the construction of improvements to the north wastewater treatment plant and certain extensions, betterments, and improvements in connection therewith (the "Improvements"), all of which are additions to the waterworks and sewer system of the City, which is operated as a single, integrated municipal undertaking (the "System"); and

WHEREAS, there are outstanding City of Atkins, Arkansas Waterworks and Sewer System Revenue Improvement Bond, Series A, dated February 28, 1973 (the "1973A Bond"), issued under the authority of Ordinance No. 310 of the City duly adopted and passed January 8, 1973 ("Ordinance No. 310"); City of Atkins, Arkansas Waterworks and Sewer System Revenue Improvement Bond, Series B, dated February 28, 1973 (the "1973B Bond"), issued under the authority of Ordinance No. 311 of the City duly adopted and passed January 8, 1973 ("Ordinance No. 311"); City of Atkins, Arkansas Sewer System Revenue Improvement Bond, dated October 3, 1974 (the "1973 Bond"), issued under the authority of Ordinance No. 317 of the City duly adopted and passed September 28, 1973 ("Ordinance No. 317"); and City of Atkins, Arkansas Waterworks System Revenue Improvement Bond, dated October 1, 1975 (the "1974 Bond"), issued under the authority of Ordinance No. 322 of the City duly adopted and passed August 6, 1974 ("Ordinance No. 322"); and

WHEREAS, to secure funds necessary to finance the construction of the Improvements the City has determined to issue its Water and Sewer Revenue Bonds, Series 1987, in an aggregate principal amount of not to exceed One Million, Four Hundred Fifty Thousand Dollars ($1,450,000) (the "Series 1987 Bonds"); and

WHEREAS, the City has obtained the consent of the Farmers Home Administration, holder and registered owner of all of the outstanding 1973A Bonds, 1973B Bonds, 1973 Bonds, and 1974

Bonds, to the issuance of the Series 1987 Bonds on a parity with the 1973A Bonds, 1973B Bonds, 1973 Bonds, and 1974 Bonds and the amendment of Ordinances No. 310, 311, 317, and 322 to allow the issuance of bonds on a parity with the 1973A Bonds, 1973B Bonds, 1973 Bonds, and 1974 Bonds under certain circumstances;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ATKINS, ARKANSAS:

Section 1. That Section 7 of Ordinance No. 310 is hereby amended by substituting therefor the following Section 7:

"Section 7. (a) After there shall have been paid from the Water and Sewer Fund of the City, established by Ordinance No. 258 of the Ordinances of the City of Atkins, Arkansas, passed and approved August 7, 1962, the funds required to be paid therefrom into the Water and Sewer Operation and Maintenance Fund established by said Ordinance No. 258, there shall be transferred and paid by the City Treasurer from the Water and Sewer Fund (i) into a special fund, which is hereby created and designated the Waterworks and Sewer System Revenue Bond and Interest Sinking Fund, Series A and B (hereinafter sometimes called the "Sinking Fund"), the sums in the amounts and at the times hereafter stated in subsection (b) for the purpose of providing funds for the payment of the bond issued hereunder as the same become due and to create and maintain a reserve for contingencies, and (ii) into any water and sewer revenue bond fund established in connection with additional bonds issued pursuant to Section 18 hereof on a parity of security with the bond issued hereunder, sums in the amounts and at the times sufficient for the payment of the principal of and premium, if any, and interest on such additional bonds and the paying agent's fees in connection therewith as the same become due (at maturity or upon mandatory sinking fund redemption), and to create and maintain a reserve for contingencies. The Sinking Fund created hereunder and any water and sewer revenue bond fund established in connection with additional bonds issued pursuant to Section 18 hereof on a parity of security with the bonds issued hereunder shall hereafter be collectively referred to as 'Water and Sewer Revenue Bond Funds.'

"(b) That there shall be paid from the Water and Sewer Fund into the Sinking Fund on or before the fifth day of business of each month until the bond issued hereunder and the interest thereon have been paid in full, or provision made for such payment, a sum equal to one-twelfth (1/12th) of the next installment of principal of and interest on the bond, plus the sum of

Two Hundred Eleven Dollars ($211.00) until there shall have been accumulated a debt service reserve in the amount of Twenty-one Thousand, One Hundred Dollars ($21,100.00); PROVIDED, HOWEVER, that when in any fiscal year no principal of or interest on the bond issued hereunder is in default and the amount in the Sinking Fund provides a reserve in the sum of $21,100.00, and so long as the said debt service reserve is so maintained, the amount so deposited each month into the said Sinking Fund shall equal one-twelfth (1/12th) of the next installment of principal and interest.

"(c) If the revenues of the System in any month are insufficient to make the required payment on the fifth business day of the following month into the Sinking Fund, then the amount of any deficiency in the payment made shall be added to the amount otherwise required to be paid into the Sinking Fund on or before the fifth day of the next month. The amount by which payments on the principal of and interest on the Waterworks and Sewer System Revenue Improvement Bonds, Series A and B, in any fiscal year exceed the aggregate amount of interest and principal payable in the next succeeding fiscal year, shall be held in said Sinking Fund as a reserve for contingencies and used solely as herein provided; PROVIDED, HOWEVER, that when the moneys held in the Sinking Fund, including the reserve for contingencies, shall be and remain sufficient to pay the principal of and interest on the Waterworks and Sewer System Revenue Improvement Bonds, Series A and B, then outstanding, the City Treasurer shall not be obligated to make any further payments into the Sinking Fund. If, for any reason, the City Treasurer shall fail at any time to make any of such payments into the Sinking Fund, any sums then held as a reserve for contingencies shall be used to the extent necessary in the payment of the interst on and the principal of the bond issued hereunder, but such reserve shall be reimbursed from the next available revenues of the System. All moneys in the Sinking Fund shall be used solely for the purpose of paying on a parity the interest on and the principal of the said Waterworks and Sewer System Revenue Improvement Bonds, Series A and B."

Section 2. That Section 18 of Ordinance No. 310 is hereby amended by substituting therefor the following Section 18:

"Section 18. As long as any of the bonds authorized hereby are outstanding, the City shall not issue or attempt to issue any bonds or obligations

having or claimed to be entitled to priority of lien on the revenues of the System over the lien securing the bonds issued hereunder, including the improvements herein authorized and any and all future extensions, betterments, and improvements to the System. However, nothing in this Ordinance shall be construed to prevent the issuance by the City of additional bonds to refund any outstanding bonds issued hereunder or to finance or pay the cost of constructing any future extensions, betterments, and improvements to the System; provided, the City shall not authorize or issue any such additional bonds ranking on a parity with the outstanding bonds issued hereunder unless and until (1) there shall have been procured and filed with the Trustee a statement by an independent certified public accountant not in the regular employ of the City reciting the opinion based upon necessary investigation that net revenues (net revenues being gross revenues of the System less operation and maintenance expenses) derived from the operation of the System for the fiscal year preceding the year in which such additional bonds are proposed to be issued were not less than 125% of the maximum annual debt service requirements (principal, interest, and paying agent's fees) on all water and sewer revenue bonds then outstanding and the additional bonds then proposed to be issued; or (2) there shall have been procured and filed with the Trustee a statement by an independent certified public accountant not in the regular employ of the City or an independent consulting engineer not in the regular employ of the City reciting the opinion based upon necessary investigation that 'adjusted net revenues' derived from the operation of the System for the fiscal year preceding the year in which such additional bonds are proposed to be issued would have been not less than 125% of the maximum annual debt service requirements (principal, interest, and paying agent's fees) on all water and sewer revenue bonds then oustanding and the additional bonds then proposed to be issued. 'Adjusted net revenues' means net revenues adjusted (i) for rate increases passed prior to issuance of such additional bonds, (ii) for customers added prior to issuance of such additional bonds, and (iii) for additional revenues to be derived from the completion of a project to be funded from such additional bonds provided that such project would provide service to a new area with a pre-existing customer base; or (3) the City obtains the prior written consent of the Farmers Home Administration.

"The additional bonds, the issuance of which is restricted and conditioned by this Section 18, shall

not be deemed to mean bonds the security and source of payment of which are subordinate and subject to the priority of the bonds issued hereunder."

Section 3. That Section 7 of Ordinance No. 311 is hereby amended by substituting therefor the following Section 7:

"Section 7. (a) After there shall have been paid from the Water and Sewer Fund of the City, established by Ordinance No. 258 of the Ordinances of the City of Atkins, Arkansas, passed and approved August 7, 1962, the funds required to be paid therefrom into the Water and Sewer Operation and Maintenance Fund established by said Ordinance No. 258, there shall be transferred and paid by the City Treasurer from the Water and Sewer Fund (i) into the Waterworks and Sewer System Revenue Bond and Interest Sinking Fund, Series A and B, established by Ordinance No. 310 of the City, adopted January 8, 1973 (hereinafter sometimes called the "Sinking Fund"), the sums required by Ordinance No. 310 and the sums in the amounts and at the times hereafter stated in subsection (b) for the purpose of providing funds for the payment of the bond issued hereunder as the same become due and to create and maintain a reserve for contingencies, and (ii) into any water and sewer revenue bond fund established in connection with additional bonds issued pursuant to Section 17 hereof on a parity of security with the bond issued hereunder, sums in the amounts and at the times sufficient for the payment of the principal of and premium, if any, and interest on such additional bonds and the paying agent's fees in connection therewith as the same become due (at maturity or upon mandatory sinking fund redemption), and to create and maintain a reserve for contingencies. The Sinking Fund and any water and sewer revenue bond fund established in connection with additional bonds issued pursuant to Section 17 hereof on a parity of security with the bonds issued hereunder shall hereafter be collectively referred to as 'Water and Sewer Revenue Bond Funds.'

"(b) There shall be paid from the Water and Sewer Fund into the Sinking Fund commencing on the fifth day of the month immediately following the month in which water is first used by the City from the multiple purpose structure or of the month which is ten (10) years from the date of the bond issued hereunder, whichever is earlier, and on the fifth day of each month thereafter until the next January 1, the fractional part of the first installment due on said bond on the next succeeding January 1, and on the fifth day of each month thereafter, one-twelfth (1/12th) of

the aggregate amount of the amortized installment of said bond becoming due and payable on the next succeeding payment date. The debt service reserve provided in said Ordinance No. 310 shall inure equally to the benefit of the bond issued hereunder.

"(c) If the revenues of the System in any month are insufficient to make the required payment on the fifth business day of the following month into the Sinking Fund, then the amount of any deficiency in the payment made shall be added to the amount otherwise required to be paid into the Sinking Fund on or before the fifth day of the next month. The amount by which payments on the principal of and interest on the Waterworks and Sewer System Revenue Improvement Bonds, Series A and B, in any fiscal year exceed the aggregate amount of interest and principal payable in the next succeeding fiscal year, shall be held in said Sinking Fund as a reserve for contingencies and used solely as herein provided; PROVIDED, HOWEVER, that when the moneys held in the Sinking Fund, including the reserve for contingencies, shall be and remain sufficient to pay the principal of and interest on the Waterworks and Sewer System Revenue Improvement Bonds, Series A and B, then outstanding, the City Treasurer shall not be obligated to make any further payments into the Sinking Fund. If, for any reason, the City Treasurer shall fail at any time to make any of such payments into the Sinking Fund, any sums then held as a reserve for contingencies shall be used to the extent necessary in the payment of the interst on and the principal of the bond issued hereunder, but such reserve shall be reimbursed from the next available revenues of the System. All moneys in the Sinking Fund shall be used solely for the purpose of paying on a parity the interest on and the principal of the said Waterworks and Sewer System Revenue Improvement Bonds, Series A and B."

Section 4. That Section 17 of Ordinance No. 311 is hereby amended by substituting therefor the following Section 17:

"Section 17. As long as any of the bonds authorized hereby are outstanding, the City shall not issue or attempt to issue any bonds or obligations having or claimed to be entitled to priority of lien on the revenues of the System over the lien securing the bonds issued hereunder, including the improvements herein authorized and any and all future extensions, betterments, and improvements to the System. However, nothing in this Ordinance shall be construed to prevent the issuance by the City of additional bonds to refund

any outstanding bonds issued hereunder or to finance or pay the cost of constructing any future extensions, betterments, and improvements to the System; provided, the City shall not authorize or issue any such additional bonds ranking on a parity with the outstanding bonds issued hereunder unless and until (1) there shall have been procured and filed with the Trustee a statement by an independent certified public accountant not in the regular employ of the City reciting the opinion based upon necessary investigation that net revenues (net revenues being gross revenues of the System less operation and maintenance expenses) derived from the operation of the System for the fiscal year preceding the year in which such additional bonds are proposed to be issued were not less than 125% of the maximum annual debt service requirements (principal, interest, and paying agent's fees) on all water and sewer revenue bonds then outstanding and the additional bonds then proposed to be issued; or (2) there shall have been procured and filed with the Trustee a statement by an independent certified public accountant not in the regular employ of the City or an independent consulting engineer not in the regular employ of the City reciting the opinion based upon necessary investigation that 'adjusted net revenues' derived from the operation of the System for the fiscal year preceding the year in which such additional bonds are proposed to be issued would have been not less than 125% of the maximum annual debt service requirements (principal, interest, and paying agent's fees) on all water and sewer revenue bonds then oustanding and the additional bonds then proposed to be issued. 'Adjusted net revenues' means net revenues adjusted (i) for rate increases passed prior to issuance of such additional bonds, (ii) for customers added prior to issuance of such additional bonds, and (iii) for additional revenues to be derived from the completion of a project to be funded from such additional bonds provided that such project would provide service to a new area with a pre-existing customer base; or (3) the City obtains the prior written consent of the Farmers Home Administration.

"The additional bonds, the issuance of which is restricted and conditioned by this Section 17, shall not be deemed to mean bonds the security and source of payment of which are subordinate and subject to the priority of the bonds issued hereunder."

Section 5. That Section 7 of Ordinance No. 317 is hereby amended by substituting therefor the following Section 7:

"Section 7. (a) After there shall have been paid from the Water and Sewer Fund of the City, established by Ordinance No. 258 of the Ordinances of the City of Atkins, Arkansas, passed and approved August 7, 1962, the funds required to be paid therefrom into the Water and Sewer Operation and Maintenance Fund established by said Ordinance No. 258, there shall be transferred and paid by the City Treasurer from the Water and Sewer Fund (i) into the Waterworks and Sewer System Revenue Bond and Interest Sinking Fund, Series A and B, created pursuant to the provisions of Ordinance No. 310, the sums required by Ordinance No. 310 and Ordinance No. 311, (ii) into a special fund, which is hereby created and designated the Sewer System Revenue Bond and Interest Sinking Fund (hereinafter sometimes called the "Sinking Fund"), the sums in the amounts and at the times hereafter stated in subsection (b) for the purpose of providing funds for the payment of the bond issued hereunder as the same become due and to create and maintain a reserve for contingencies, and (iii) into any water and sewer revenue bond fund established in connection with additional bonds issued pursuant to Section 19 hereof on a parity of security with the bond issued hereunder, sums in the amounts and at the times sufficient for the payment of the principal of and premium, if any, and interest on such additional bonds and the paying agent's fees in connection therewith as the same become due (at maturity or upon mandatory sinking fund redemption), and to create and maintain a reserve for contingencies. The Sinking Fund and any water and sewer revenue bond fund established in connection with additional bonds issued pursuant to Section 19 hereof on a parity of security with the bonds issued hereunder shall hereafter be collectively referred to as 'Water and Sewer Revenue Bond Funds.'

"(b) That there shall be paid from the Water and Sewer Fund into the Sinking Fund on or before the fifth day of business of each month until the bond issued hereunder and the interest thereon have been paid in full, or provision made for such payment, a sum equal to one-tenth (1/10th) of the next installment of principal of and interest on the bond until there shall have been accumulated a debt service reserve in the amount of Thirteen Thousand, One Hundred Dollars ($13,100.00); PROVIDED, HOWEVER, that when in any fiscal year no principal of or interest on the bond issued hereunder is in default and the amount in the Sinking Fund provides a reserve in the sum of $13,100.00, and so long as the said debt service reserve is so maintained, the amount so deposited each month into the said Sinking Fund shall equal

one-twelfth (1/12th) of the next installment of principal and interest.

"(c) If the revenues of the System in any month are insufficient to make the required payment on the fifth business day of the following month into the Sinking Fund, then the amount of any deficiency in the payment made shall be added to the amount otherwise required to be paid into the Sinking Fund on or before the fifth day of the next month. The amount by which payments on the principal of and interest on the bond issued hereunder in any fiscal year exceed the aggregate amount of interest and principal payable in the next succeeding fiscal year, shall be held in said Sinking Fund as a reserve for contingencies and used solely as herein provided; PROVIDED, HOWEVER, that when the moneys held in the Sinking Fund, including the reserve for contingencies, shall be and remain sufficient to pay the principal of and interest on the bond issued hereunder then outstanding, the City Treasurer shall not be obligated to make any further payments into the Sinking Fund. If, for any reason, the City Treasurer shall fail at any time to make any of such payments into the Sinking Fund, any sums then held as a reserve for contingencies shall be used to the extent necessary in the payment of the interst on and the principal of the bond issued hereunder, but such reserve shall be reimbursed from the next available revenues of the System. All moneys in the Sinking Fund shall be used solely for the purpose of paying the interest on and the principal of the bond issued hereunder."

Section 6. That Section 19 of Ordinance No. 317 is hereby amended by substituting therefor the following Section 19:

"Section 19. As long as any of the bonds authorized hereby are outstanding, the City shall not issue or attempt to issue any bonds or obligations having or claimed to be entitled to priority of lien on the revenues of the System over the lien securing the bonds issued hereunder, including the improvements herein authorized and any and all future extensions, betterments, and improvements to the System. However, nothing in this Ordinance shall be construed to prevent the issuance by the City of additional bonds to refund any outstanding bonds issued hereunder or to finance or pay the cost of constructing any future extensions, betterments, and improvements to the System; provided, the City shall not authorize or issue any such additional bonds ranking on a parity with the outstanding bonds issued hereunder unless and until (1)

there shall have been procured and filed with the Trustee a statement by an independent certified public accountant not in the regular employ of the City reciting the opinion based upon necessary investigation that net revenues (net revenues being gross revenues of the System less operation and maintenance expenses) derived from the operation of the System for the fiscal year preceding the year in which such additional bonds are proposed to be issued were not less than 125% of the maximum annual debt service requirements (principal, interest, and paying agent's fees) on all water and sewer revenue bonds then outstanding and the additional bonds then proposed to be issued; or (2) there shall have been procured and filed with the Trustee a statement by an independent certified public accountant not in the regular employ of the City or an independent consulting engineer not in the regular employ of the City reciting the opinion based upon necessary investigation that 'adjusted net revenues' derived from the operation of the System for the fiscal year preceding the year in which such additional bonds are proposed to be issued would have been not less than 125% of the maximum annual debt service requirements (principal, interest, and paying agent's fees) on all water and sewer revenue bonds then oustanding and the additional bonds then proposed to be issued. 'Adjusted net revenues' means net revenues adjusted (i) for rate increases passed prior to issuance of such additional bonds, (ii) for customers added prior to issuance of such additional bonds, and (iii) for additional revenues to be derived from the completion of a project to be funded from such additional bonds provided that such project would provide service to a new area with a pre-existing customer base; or (3) the City obtains the prior written consent of the Farmers Home Administration.

"The additional bonds, the issuance of which is restricted and conditioned by this Section 19, shall not be deemed to mean bonds the security and source of payment of which are subordinate and subject to the priority of the bonds issued hereunder."

Section 7. That Section 6 of Ordinance No. 322 is hereby amended by substituting therefor the following Section 6:

"Section 6. (a) After there shall have been paid from the Water and Sewer Fund of the City, established by Ordinance No. 258 of the Ordinances of the City of Atkins, Arkansas, passed and approved August 7, 1962, the funds required to be paid therefrom into the Water and Sewer Operation and Maintenance Fund established by

said Ordinance No. 258, there shall be transferred and paid by the City Treasurer from the Water and Sewer Fund (i) into the Waterworks and Sewer System Revenue Bond and Interest Sinking Fund, Series A and B, created pursuant to the provisions of Ordinance No. 310, the sums required by Ordinance No. 310 and Ordinance No. 311, (ii) into the Sewer System Revenue Bond and Interest Sinking Fund created pursuant to the provisions of Ordinance No. 317 the sums required by Ordinance No. 317, (iii) into a special fund which is hereby created and designated "1974 Waterworks Revenue Bond and Interest Sinking Fund" (hereinafter sometimes called the "Sinking Fund"), the sums in the amounts and at the times hereafter stated in subsection (b) for the purpose of providing funds for the payment of the bond issued hereunder as the same become due and to create and maintain a reserve for contingencies, and (iv) into any water and sewer revenue bond fund established in connection with additional bonds issued pursuant to Section 17 hereof on a parity of security with the bond issued hereunder, sums in the amounts and at the times sufficient for the payment of the principal of and premium, if any, and interest on such additional bonds and the paying agent's fees in connection therewith as the same become due (at maturity or upon mandatory sinking fund redemption), and to create and maintain a reserve for contingencies. The Sinking Fund and any water and sewer revenue bond fund established in connection with additional bonds issued pursuant to Section 17 hereof on a parity of security with the bonds issued hereunder shall hereafter be collectively referred to as 'Water and Sewer Revenue Bond Funds.'

"(b) That there shall be paid from the Water and Sewer Fund into the Sinking Fund on or before the fifth day of business of each month until the bond issued hereunder and the interest thereon have been paid in full, or provision made for such payment, a sum equal to one-twelfth (1/12th) of the next installment of principal of and interest on the bond issued hereunder plus the sum of Three Hundred Twenty-one Dollars ($321.00) to establish a debt service reserve until there shall have been accumulated a debt service reserve in the amount of Thirty-eight Thousand, Five Hundred Dollars ($38,500.00); PROVIDED, HOWEVER, that when in any fiscal year no principal of or interest on the bond is in default and the amount in the Sinking Fund provides a reserve in the sum of $38,500.00, and so long as the said debt service reserve is so maintained, the amount so deposited each month into the said Sinking Fund shall equal one-twelfth (1/12th) of the next installment of principal and interest.

"(c) If the revenues of the System in any month are insufficient to make the required payment on the fifth business day of the following month into the Sinking Fund, then the amount of any deficiency in the payment made shall be added to the amount otherwise required to be paid into the Sinking Fund on or before the fifth day of the next month. The amount by which payments on the principal of and interest on the bond issued hereunder in any fiscal year exceed the aggregate amount of interest and principal payable in the next succeeding fiscal year, shall be held in said Sinking Fund as a reserve for contingencies and used solely as herein provided; PROVIDED, HOWEVER, that when the moneys held in the Sinking Fund, including the reserve for contingencies, shall be and remain sufficient to pay the principal of and interest on the bond issued hereunder then outstanding, the City Treasurer shall not be obligated to make any further payments into the Sinking Fund. If, for any reason, the City Treasurer shall fail at any time to make any of such payments into the Sinking Fund, any sums then held as a reserve for contingencies shall be used to the extent necessary in the payment of the interst on and the principal of the bond issued hereunder, but such reserve shall be reimbursed from the next available revenues of the System. All moneys in the Sinking Fund shall be used solely for the purpose of paying the interest on and the principal of the bond issued hereunder."

Section 8. That Section 17 of Ordinance No. 322 is hereby amended by substituting therefor the following Section 17:

"Section 17. As long as any of the bonds authorized hereby are outstanding, the City shall not issue or attempt to issue any bonds or obligations having or claimed to be entitled to priority of lien on the revenues of the System over the lien securing the bonds issued hereunder, including the improvements herein authorized and any and all future extensions, betterments, and improvements to the System. However, nothing in this Ordinance shall be construed to prevent the issuance by the City of additional bonds to refund any outstanding bonds issued hereunder or to finance or pay the cost of constructing any future extensions, betterments, and improvements to the System; provided, the City shall not authorize or issue any such additional bonds ranking on a parity with the outstanding bonds issued hereunder unless and until (1) there shall have been procured and filed with the Trustee a statement by an independent certified public accountant not in the regular employ of the City

reciting the opinion based upon necessary investigation that net revenues (net revenues being gross revenues of the System less operation and maintenance expenses) derived from the operation of the System for the fiscal year preceding the year in which such additional bonds are proposed to be issued were not less than 125% of the maximum annual debt service requirements (principal, interest, and paying agent's fees) on all water and sewer revenue bonds then outstanding and the additional bonds then proposed to be issued; or (2) there shall have been procured and filed with the Trustee a statement by an independent certified public accountant not in the regular employ of the City or an independent consulting engineer not in the regular employ of the City reciting the opinion based upon necessary investigation that 'adjusted net revenues' derived from the operation of the System for the fiscal year preceding the year in which such additional bonds are proposed to be issued would have been not less than 125% of the maximum annual debt service requirements (principal, interest, and paying agent's fees) on all water and sewer revenue bonds then oustanding and the additional bonds then proposed to be issued. 'Adjusted net revenues' means net revenues adjusted (i) for rate increases passed prior to issuance of such additional bonds, (ii) for customers added prior to issuance of such additional bonds, and (iii) for additional revenues to be derived from the completion of a project to be funded from such additional bonds provided that such project would provide service to a new area with a pre-existing customer base; or (3) the City obtains the prior written consent of the holders of not less than 85% of the then outstanding bonds authorized to be issued hereunder.

"The additional bonds, the issuance of which is restricted and conditioned by this Section 19, shall not be deemed to mean bonds the security and source of payment of which are subordinate and subject to the priority of the bonds issued hereunder."

Section 9. That the City Council hereby finds and declares that the conditions set forth herein regarding the issuance of parity bonds have been fully met and that therefore, the 1973A Bonds, the 1973B Bonds, the 1973 Bonds, and the 1974 Bonds are declared to be on a parity of security.

Section 10. That the provisions of this Ordinance are hereby declared to be separable and if any provisions shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of the Ordinance.

Section 11. That all ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 12. That it is hereby ascertained and declared that the Improvements must be accomplished as soon as possible in order to alleviate immediate hazards to the health, safety, and welfare of the City, its inhabitants, and their property, and that the Improvements can be accomplished only by the issuance of water and sewer revenue bonds on a parity of security with the City's 1973A Bonds, 1973B Bonds, 1973 Bonds, and 1974 Bonds. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public peace, health, and safety shall take effect and be enforced from and after its passage.

PASSED AND APPROVED THIS 20TH DAY OF APRIL, 1987.

Mayor

ATTEST:

City Clerk

(S E A L)

APPROVED AS TO FORM:

City Attorney

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RLF041687