ORDINANCE NO. 87-8

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATER AND SEWER REVENUE BONDS BY THE CITY OF ATKINS, ARKANSAS FOR THE PURPOSE OF PAYING THE COST OF CONSTRUCTING IMPROVEMENTS TO THE NORTH WASTEWATER TREATMENT PLANT AND CERTAIN EXTENSIONS, BETTERMENTS, AND IMPROVEMENTS IN CONNECTION THEREWITH; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; 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, 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, the Water and Sewer Commission of the City, the membership of which consists of Jim Sewell, Homer Cheek, Jerry Barrett, Steve Lemley, and Dorothy Wiley, has had prepared by Mehlburger, Tanner, Robinson & Associates, Architects-Engineers, an engineering report on providing improvements to the north wastewater treatment plant and estimates of cost of needed betterments and improvements (the "engineering report"), which engineering report has been approved by the Commission and recommended to the City Council of the City (the "City Council"), and copies of which are on file in the offices of the City Clerk and the Manager of the System; and

WHEREAS, the City Council has studied the engineering report which, generally stated, recommend a construction program consisting of the following components: (1) effluent pump station and force main, (2) influent pump station and force main, (3) gravity line improvements, and (4) improvements to the north wastewater treatment plant, together with needed and related equipment, improvements, and expenditures and, where necessary, the acquisition of lands and easements (all of which will be herein referred to as the "Improvements"); and

WHEREAS, the engineering report has estimated the cost of the Improvements (including the furnishing of all labor, materials, and other services in connection with the completion of the Improvements) to be approximately $1,460,000; 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, as amended by Ordinance No. 87-7, duly adopted and passed April 20, 1987 ("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, as amended by Ordinance No. 87-7, duly adopted and passed April 20, 1987 ("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, as amended by Ordinance No. 87-7, duly adopted and passed April 20, 1987 ("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, as amended by Ordinance No. 87-7, duly adopted and passed April 20, 1987 ("Ordinance No. 322") (the 1973A Bond, the 1973B Bond, the 1973 Bond, and the 1974 Bond are herein collectively called the "Prior Bonds"); and

WHEREAS, the City is authorized under Amendment No. 65 to the Constitution of the State of Arkansas ("Amendment 65") and Acts No. 131 and 132 of the Acts of the General Assembly of the State of Arkansas for the year 1933, as amended ("Act 131" and "Act 132"), to issue and sell revenue bonds for the purpose of financing the cost of constructing improvements and betterments to the System, including printing, legal, underwriting, and other expenses incidental to the issuance of the bonds; and

WHEREAS, to secure funds necessary to finance the construction of the Improvements and the engineering, legal, and other costs incidental to the issuance of revenue bonds for such purpose (with it being contemplated that additional moneys necessary to complete the Improvements will be obtained from a grant from the Arkansas Industrial Development Commission and from existing cash reserves of the System), the City has determined to issue revenue bonds upon the most favorable terms to the City and upon the most favorable terms and conditions to the users of the System of the City, in an aggregate principal amount of not to exceed One Million, Four Hundred Fifty Thousand Dollars ($1,450,000) (the "Series 1987 Bonds"), to be issued in series, with the Series 1987A Bonds to be issued as "qualified tax-exempt obligations" within the meaning of the Internal Revenue Code of 1986, as amended (the "Code"), in an aggregate principal amount of not to exceed Seven Hundred Thousand Dollars ($700,000) and the Series 1987B Bonds to be issued as "private activity bonds" within the meaning of the Code in an aggregate principal amount of not to exceed Seven Hundred Fifty Thousand Dollars ($750,000); and

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WHEREAS, the City has obtained the consent of the Farmers Home Administration, holder and registered owner of all of the outstanding Prior Bonds, to the issuance of the Series 1987 Bonds on a parity with the Prior Bonds;

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

Section 1. That the Improvements be accomplished. The accomplishment of the Improvements shall be under the control and supervision of, and all details in connection therewith shall be handled by, the heretofore created and presently existing Commission, and the Commission shall make all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. The Commission shall let all construction contracts pursuant to and in accordance with existing laws and shall require such performance bonds and insurance from the contractors as will, in the judgment of the Commission, fully insure the completion of the Improvements in accordance with the plans, specifications, and drawings of the consulting engineers so as to fully promote and protect the best interests of the City and the registered owners of the revenue bonds authorized hereby. The City Council hereby finds and declares that the period of usefulness of the System will be more than forty (40) years, which is longer than the term of the Series 1987 Bonds.

Section 2. That under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 65, Act 131, and Act 132, City of Atkins, Arkansas Sewer Revenue Bonds, Series 1987 (the "Series 1987 Bonds"), are hereby authorized in the total principal amount of not to exceed One Million, Four Hundred Fifty Thousand Dollars ($1,450,000), the proceeds of the sale of which are necessary to provide sufficient funds, together with other funds available, to pay the cost of accomplishing the Improvements, including, without limitation, the acquisition of necessary rights-of-way, engineering fees, legal fees, and other necessary expenses incidental to the accomplishment of the Improvements, and to the issuance of the Series 1987 Bonds. The Series 1987 Bonds shall be issued in series, with the Series 1987A Bonds to be issued as "qualified tax-exempt obligations" within the meaning of the Internal Revenue Code of 1986, as amended (the "Code"), in an aggregate principal amount of not to exceed Seven Hundred Thousand Dollars ($700,000) and the Series 1987B Bonds to be issued as "private activity bonds" within the meaning of the Code in an aggregate principal amount of not to exceed Seven Hundred Fifty Thousand Dollars ($750,000). The Series 1987 Bonds shall be issued in fully registered form without interest coupons, and payment of interest shall be by check or draft mailed to the registered owners thereof as of the applicable record date. The principal of the Series 1987 Bonds shall be

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payable to the registered owners thereof at the principal corporate trust office of a bank to be designated as Trustee and Paying Agent (the "Trustee"). The Series 1987 Bonds shall be issued in the principal amount, shall be dated, shall bear interest payable semiannually, and shall mature (or shall be subject to mandatory sinking fund redemption) annually; shall be sold to Stephens Inc. (the "Purchaser") at a price and pursuant to a bond purchase agreement between the Purchaser and the City; and shall be payable at the office of a bank which will serve as trustee, all as specified in an ordinance of the City Council of the City, hereafter referred to.

The City Council hereby finds and declares that the conditions set forth in Ordinances No. 310, 311, 317, and 322 have been fully met and complied with and that therefore, the Series 1987 Bonds shall be issued on a parity of security with the Prior Bonds. The Prior Bonds, the Series 1987 Bonds, and any additional bonds issued on a parity of security therewith under the terms and conditions of this Ordinance shall hereafter be collectively referred to as "Water and Sewer Revenue Bonds."

Section 3. That the actions of the City in approving the aggregate principal amount of Series 1987 Bonds to be issued (not to exceed $1,450,000), in approving the details of the maturity and mandatory sinking fund redemption schedule, in authorizing the form and use of an Official Statement in connection with the public offering of the Series 1987 Bonds, in approving the execution and delivery of a Bond Purchase Contract with the Purchaser, and in designating a bank to serve as trustee and paying agent for the Series 1987 Bonds, shall be submitted to the City Council for approval by ordinance. The Series 1987 Bonds shall be numbered consecutively as issued beginning with number one (1) and shall be in denominations of $5,000 and integral multiples thereof. The ordinance of the City Council, referred to above, shall set forth in detail a maturity schedule for each series of bonds reflecting the years, annual principal maturities and/or mandatory sinking fund redemptions, semiannual interest, and total principal, sinking fund, and interest requirements. Thereafter, the Series 1987 Bonds shall be executed on behalf of the City by the Mayor and City Clerk and shall have imprinted thereon a facsimile of the seal of the City. The facsimile signatures of the Mayor and the City Clerk may be used upon compliance with the provisions of Act No. 69 of the Acts of the General Assembly of the State of Arkansas for the year 1959, as amended, and shall have the same force and effect as if they had personally signed the Series 1987 Bonds. In case the person holding the office of Mayor or City Clerk, whose signature or a facsimile of whose signature shall appear on the Series 1987 Bonds, shall cease to be such officer before the delivery of the Series 1987 Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had

remained in office until delivery of the Series 1987 Bonds. The principal of and interest on the Series 1987A Bonds and the Series 1987B Bonds are secured by and payable solely out of the 1987A Water and Sewer Revenue Bond Fund and the 1987B Water and Sewer Revenue Bond Fund, respectively, as hereafter set forth. The Series 1987A Bonds and the Series 1987B Bonds shall be a valid claim of the bondholders only against such respective funds and the revenues pledged to such funds, which revenues are hereby pledged and mortgaged for the equal and ratable payment of the principal of and premium, if any, and interest on the Series 1987 Bonds, and shall be used for no other purpose except as in this Ordinance specifically provided. The principal of and interest on the Series 1987 Bonds shall not constitute an indebtedness of the City within any constitutional or statutory debt limitation or restriction.

Only such Series 1987 Bonds as shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in Section 4 hereof duly executed by the Trustee shall be entitled to any right or benefit hereunder. No Series 1987 Bond shall be valid and obligatory for any purpose unless and until such Certificate of Authentication shall have been duly executed by the Trustee, and such certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered hereunder. The Trustee's Certificate of Authentication on any Series 1987 Bond shall be deemed to have been executed if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Series 1987 Bonds.

In case any Series 1987 Bond shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new Series 1987 Bond of like date, number, maturity, and tenor in exchange and substitution for and upon cancellation of such mutilated Series 1987 Bond, or in lieu of and in substitution for such Series 1987 Bond destroyed or lost, upon the owner's paying the reasonable expenses and charges of the City and Trustee in connection therewith, and, in the case of a Series 1987 Bond destroyed or lost, his or her filing with the Trustee evidence satisfactory to it that such Series 1987 Bond was destroyed or lost, and of his or her ownership thereof, and furnishing the City and Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new Series 1987 Bond. In the event any such Series 1987 Bond shall have matured, instead of issuing a new Series 1987 Bond, the City may pay the same without the surrender thereof. Upon the issuance of a new Series 1987 Bond under this Section, the City may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation

thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

The City shall cause books to be kept for the registration and for the transfer of the Series 1987 Bonds as provided herein and in the Series 1987 Bonds. The Trustee shall act as the bond registrar. Each Series 1987 Bond is transferable by the registered owner thereof or by his attorney duly authorized in writing at the principal office of the Trustee. Upon such transfer a new fully registered Series 1987 Bond or Bonds of the same series, maturity, and interest rate, of authorized denomination or denominations, for the same aggregate principal amount will be issued to the transferee in exchange therefor.

No charge shall be made to any owner of any Series 1987 Bond for the privilege of transfer or exchange, but any owner of any Series 1987 Bond requesting any such transfer or exchange shall pay any tax or other governmental charge required to be paid with respect thereto. Except as otherwise provided in the immediately preceding sentence, the cost of preparing each new Series 1987 Bond upon each exchange or transfer and any other expenses of the City or the Trustee incurred in connection therewith shall be paid by the City.

The person in whose name any Series 1987 Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of or premium, if any, or interest on any Series 1987 Bond shall be made only to or upon the order of the registered owner thereof or his or her legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid. Neither the City nor the Trustee shall be affected by any notice to the contrary.

In any case where the date of maturity of interest on or principal of the Series 1987 Bonds or the date fixed for redemption of any Series 1987 Bonds shall be a Saturday or Sunday or shall be in the State of Arkansas a legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal (and premium, if any) need not be made on such date but may be made on the next succeeding business day not a Saturday or Sunday or a legal holiday or a day upon which banking institutions are authorized by law to close with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after the date of maturity or date fixed for redemption.

Section 4. That the Series 1987A Bonds and Series 1987B Bonds shall be in substantially the following form and the Mayor

and City Clerk are hereby authorized and directed to make all recitals contained therein:

(FRONT OF SERIES 1987A [1987B] BOND)

REGISTERED NO._____ REGISTERED $_____

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF POPE
CITY OF ATKINS
WATER AND SEWER REVENUE BOND
SERIES 1987A [1987B]

Interest Rate:	Maturity Date:	Interest Commencement Date:	CUSIP:

Registered Owner:

Principal Amount:

KNOW ALL MEN BY THESE PRESENTS:

That the City of Atkins, Arkansas (the "City"), hereby acknowledges itself to owe, and for value received promises to pay to the order of the Registered Owner shown above, or registered assigns, but solely from the special fund provided therefor as hereinafter set forth, in lawful money of the United States of America, upon the presentation and surrender of this bond, the Principal Amount shown above on the Maturity Date shown above, and to pay in like coin or currency interest thereon at the Interest Rate shown above from the Interest Commencement Date shown above until paid, such interest to be payable semiannually on the first day of _____ and _____ of each year, commencing on the semiannual interest payment date next succeeding the Interest Commencement Date, payable by check or draft of _____ (the "Trustee"), mailed to the Registered Owner hereof as of the applicable Record Date (as defined in the reverse hereof). Principal of this bond is hereby made payable to the Registered Owner at the office of the Trustee in _____, Arkansas.

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This bond is part of an issue of Water and Sewer Revenue Bonds, Series 1987A [1987B] (the "bonds"), aggregating _____ [_____] Dollars ($_____ [$_____]), all of like tenor and effect, except as to denomination, interest rate, maturity, and right of prior redemption, and are issued for the purpose of financing the cost of constructing extensions, betterments, and improvements to the waterworks and sewer system of the City (the "System").

This bond and all bonds of this issue are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, particularly Amendment No. 65 to the Constitution of the State of Arkansas ("Amendment 65") and Acts No. 131 and 132 of the Acts of the General Assembly of the State of Arkansas for the year 1933, as amended ("Act 132"), and pursuant to Ordinance No. _____ of the City Council of the City, duly adopted and approved on the ____ day of April, 1987, as supplemented by Ordinance No. _____ of the City Council of the City, duly adopted and approved on the ____ day of _____, 1987 (collectively, the "Authorizing Ordinance"), and do not constitute an indebtedness of the City within any constitutional or statutory limitation. The City shall not be obligated to pay the principal of this bond or the interest hereon except from the special fund provided from the net revenues of the System.

[REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE HEREOF, WHICH HAVE THE SAME EFFECT AS IF SET FORTH IN THIS PLACE.]

This bond shall not be valid until the Certificate of Authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the City of Atkins, Arkansas, by its City Council, has caused this bond to be executed in its name by the facsimile signatures of the Mayor and City Clerk thereof, with the seal of the City imprinted hereon, all as of the first day of _____, 1987.

CITY OF ATKINS, ARKANSAS

By [Facsimile Signature]
Mayor

ATTEST:

[Facsimile Signature]
City Clerk

(FACSIMILE SEAL)

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TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the bonds of the issue of Water and Sewer Revenue Bonds, Series 1987A [1987B], of the City of Atkins, Arkansas, dated _____ 1, 1987, and aggregating $_____ [$_____] in principal amount, described in the bond to which this certificate is attached.

Printed on the reverse hereof is the complete text of the opinion of Rose Law Firm, a Professional Association, of Little Rock, Arkansas, a signed original of which is on file with the undersigned, delivered and dated the date of the original delivery of and payment for the bonds.

_____,
Trustee

By: _____
(Authorized Signature)

Date of Authentication: _____

[REVERSE OF BOND]

CITY OF ATKINS, ARKANSAS
WATER AND SEWER REVENUE BOND, SERIES 1987A [1987B]

ADDITIONAL PROVISIONS

The City has designated this bond as a "qualified tax-exempt obligation" for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended. [Dean Foods Company, a _____ corporation (the "Guarantor"), has unconditionally guaranteed the payment of the principal of and premium, if any, and interest on the Series 1987B Bonds pursuant to a Guaranty Agreement between the Guarantor and the Trustee, dated as of _____ 1, 1987.]

This bond is issued on a parity of security with (i) $424,000 original principal amount of 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, as amended by Ordinance No. _____, duly adopted and passed April 20, 1987; (ii) $204,000 original principal amount of City of Atkins, Arkansas Waterworks and Sewer System Revenue Improvement Bond, Series B, dated February 28, 1987 (the "1973B Bond"), issued under the authority of Ordinance No. 311 of the City duly adopted and passed

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January 8, 1973, as amended by Ordinance No. ____, duly adopted and passed April 20, 1987; (iii) $223,000 original principal amount of 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, as amended by Ordinance No. _____, duly adopted and passed April 20, 1987; (iv) $748,000 original principal amount of 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, as amended by Ordinance No. _____, duly adopted and passed April 20, 1987; and (v) $_____ [$_____] original principal amount of City of Atkins, Arkansas Water and Sewer Revenue Bonds, Series 1987B [1987A], dated _____ 1, 1987 (the "Series 1987B [1987A] Bonds"), issued under the authority of Authorizing Ordinance.

The bonds of this issue are not general obligations of the City, but are special obligations payable solely from net revenues derived from the operation of the System, an amount of which sufficient to pay the principal of and premium, if any, and interest on the bonds is to be set aside in a special fund for that purpose identified as the 1987A [1987B] Water and Sewer Revenue Bond Fund. Reference is made to the Authorizing Ordinance for a detailed statement of the nature and extent of security (the flow of revenues of the System is First, to an Operation and Maintenance Fund; Second, to the Waterworks and Sewer Revenue Bond and Interest Sinking Fund securing the 1973A Bond and the 1973B Bond, the Sewer Revenue Bond and Interest Sinking Fund securing the 1973 Bond, the Waterworks Revenue Bond and Interest Sinking Fund securing the 1974 Bonds, the 1987B [1987A] Water and Sewer Revenue Bond Fund securing the Series 1987B [1987A] Bonds, the 1987A [1987B] Water and Sewer Revenue Bond Fund securing the bonds of this issue, and into any sewer revenue bond fund established in connection with additional bonds issued on a parity of security with the bonds of this issue; and Third, to a Depreciation Fund), the rights and obligations of the City, the Trustee, and registered owners of the bonds, the terms and conditions upon which additional bonds may be issued on a parity of security with the bonds of this issue, and the terms and conditions upon which the bonds are issued, including without limitation the covenant of the City to maintain rates for water and sewer services which shall be sufficient to produce revenues adequate for the payment of the expenses of operation and maintenance of the System, to provide for the payment of the principal of and premium, if any, and interest on the bonds of this issue and all other outstanding bonds to which net revenues of the System are pledged, as the same become due, and Trustee's and Paying Agent's fees, and to make the required deposit into the Depreciation Fund.

The bonds are subject to redemption prior to maturity in whole or in part, at the option of the City, in inverse order of maturity (and by lot within a maturity) from funds from any source on any interest payment date on and after _____ 1, 1997 at redemption prices (expressed as percentages of the principal amount of the bonds being redeemed), set forth in the table below, plus accrued interest to the date of redemption:

Redemption Dates	Redemption Prices
_____ 1, 1997 and _____ 1, 1997	102%
_____ 1, 1998 and _____ 1, 1998	101-1/2%
_____ 1, 1999 and _____ 1, 1999	101%
_____ 1, 2000 and _____ 1, 2000	100-1/2%
_____ 1, 2001 and thereafter	100%

The bonds maturing _____ 1, _____ are subject to mandatory sinking fund redemption prior to maturity in part (the bonds to be redeemed to be selected by the Trustee by lot) on _____ 1, ___ and on each _____ 1 thereafter to and including _____ 1, _____, at a redemption price equal to 100% of the principal amount of the bonds being redeemed plus accrued interest to the date of redemption, in the following amounts:

Year	Principal Amount

The remaining $_____ in principal amount of bonds maturing _____ 1, _____ will be paid on such date unless sooner redeemed.

The City is hereby authorized to receive credit against mandatory sinking fund redemption requirements for bonds acquired by the City and surrendered to the Trustee. In the case any outstanding bond is in a denomination greater than $5,000, each $5,000 of face value of such bond shall be treated as a separate bond of the denomination of $5,000.

In the event any of the bonds or portions thereof are called for redemption as aforesaid, notice thereof identifying the bonds or portions thereof to be redeemed will be given by mailing a copy of the redemption notice by first class mail at

least thirty (30) days but not more than sixty (60) days prior to the date fixed for redemption to the Registered Owner of each bond to be redeemed as of the applicable Record Date at the address shown on the registration books. Failure to give any such notice by mailing, or any defect therein, shall not affect the validity of any proceeding for the redemption of any bond with respect to which no such failure has occurred. All bonds or portions thereof so called for redemption will cease to bear interest after the specified redemption date provided funds for their redemption are on deposit at the place of payment at that time.

Any notice mailed as provided in the preceding paragraph shall be conclusively presumed to have been duly given, whether or not the Registered Owner receives the notice.

This bond is transferable by the Registered Owner hereof in person or by his or her attorney duly authorized, only upon the books of the City kept for that purpose at the office of the Trustee, upon surrender of this bond together with a written instrument of transfer in form and with guaranty of signature satisfactory to the Trustee duly executed by the Registered Owner or his or her duly authorized attorney. Upon such transfer, a new bond or bonds in the same aggregate principal amount will be issued to the transferee in exchange therefor as provided in the Authorizing Ordinance, and upon payment of the charges therein prescribed. The City and the Trustee may deem and treat the person in whose name this bond is registered as the absolute owner hereof (whether or not this bond shall be overdue) for the purpose of receiving payment of, or on account of, principal hereof and premium, if any, and interest due hereon and for all other purposes.

The bonds are issuable as fully registered bonds in denominations of $5,000 or any integral multiple thereof. Subject to the limitations and upon payment of the charges provided in the Authorizing Ordinance, the Registered Owner of any bond or bonds may surrender the same (together with a written instrument of transfer and guaranty of signature satisfactory to the Trustee duly executed by the Registered Owner or his or her duly authorized attorney) in exchange for a like aggregate principal amount of bonds of other authorized denominations of the same maturity.

The Trustee shall not be required to transfer or exchange any bond during any period which begins on a Record Date (as hereinafter defined) for such bond and ends on the next succeeding interest payment date or redemption date, as the case may be. "Record Date" means (i) the 15th calendar day of the month next preceding any interest payment date of such bond; or (ii) the date of the mailing of notice calling such bond or portion thereof for redemption as herein provided.

This bond is expressly made negotiable under Act 131 and Act 132 and is issued with the intent that the laws of the State of Arkansas will govern its construction.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on any of the bonds or for any claim based thereon or upon any obligation, covenant, or agreement contained in the bonds or the Authorizing Ordinance against any past, present, or future alderman, director, officer, or employee of the City, or any incorporator, member, commissioner, director, trustee, officer, or employee of any successor of the City, as such, either directly or through the City or any successor of the City, under any rule of law or equity, statute, or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such alderman, incorporator, member, commissioner, director, trustee, officer, or employee as such is hereby expressly waived and released as a condition of and consideration for the issuance of any of the bonds.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all acts, conditions, and things required to exist, happen, and be performed precedent to and in the issuance of this bond do exist, have happened, and have been performed in due time, form, and manner as required by law; that the indebtedness represented by the bonds of this issue does not exceed or violate any constitutional or statutory limitation; and that sufficient net revenues have been pledged to and will be set aside into the 1987A [1987B] Water and Sewer Revenue Bond Fund, referred to above, for the payment of the principal of and premium, if any, and interest on the bonds of this issue.

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -	as tenants in common
TEN ENT -	as tenants by the entireties
JT TEN -	as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT _____ Custodian _____
(Cust) (Minor)

_____
(State)

Additional abbreviations may also be used, though not in the above list.

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FORM OF TRANSFER

FOR VALUE RECEIVED, _____, the undersigned, hereby sells, assigns, and transfers unto _____ (Please insert name, address, and Social Security or other identifying number of assignee) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ _____ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated _____

_____

NOTICE: The signature of this assignment must correspond with the name as it appears upon the face of the within bond in every particular, wihout alteration or enlargement or any change whatever.

Signature Guaranteed:

_____

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or a trust company.

Section 5. (a) That the City covenants that it will continue in effect the present schedule of rates for water and sewer services and that the rates will not be reduced except as hereafter provided in this Section, which schedule of water rates was established by Ordinance No. 79-1, and which schedule of sewer rates was established by Ordinance No. 85-4, as amended by Ordinance No. 85-19 and Ordinance No. 87-1, to which reference is hereby made for a detailed statement of the rates, and the provisions of Ordinance No. 79-1 and Ordinance No. 85-4, as amended by Ordinance No. 85-19 and Ordinance No. 87-1, are hereby incorporated herein as though fully set forth at this point.

(b) That the City covenants and agrees with the bondholders that the rates will produce a total revenue at least sufficient to pay the operation and maintenance expenses of the System, pay the principal of and premium, if any, and interest on the Water and Sewer Revenue Bonds and Paying Agent's fees in connection therewith, and make the required deposit into the Depreciation Fund. The City also covenants and agrees that the rates shall, from time to time, as and when necessary, be increased to such

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an amount as will provide revenues at least sufficient for the above purposes.

(c) That the City further covenants and agrees that the rates shall never be reduced while any Water and Sewer Revenue Bonds are outstanding, unless there is obtained from an independent certified public accountant a written opinion, based upon the number of customers and customer usage as reflected by the records of the Commission, that the proposed new rates will produce sufficient net revenues (net revenues being gross revenues of the System less operation and maintenance expenses) from the operation of the System for the suceeding fiscal year and leave a balance equal to at least one hundred twenty-five percent (125%) of the maximum annual debt service requirements (principal, interest, and paying agent's fees) on all Water and Sewer Revenue Bonds then outstanding.

(d) That none of the facilities or services afforded by the System shall be furnished without a charge being made therefor. In the event that the City or any department, agency, or instrumentality thereof shall avail itself of the facilities and services afforded by the System, the reasonable value of the service or facilities so afforded shall be charged against the City or such department, agency, or instrumentality and shall be paid for as the charges accrue. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be used and accounted for in the same manner as the other revenues derived from the operation of the System.

Section 6. Water and Sewer Fund. That the System shall be continuously operated as a revenue producing undertaking and all revenues derived from the operation of the System shall be paid into a special fund created pursuant to the provisions of Ordinance No. 258 of the City duly adopted and passed August 7, 1962 ("Ordinance No. 258"), and designated "Water and Sewer Fund." The revenues so deposited in the Water and Sewer Fund are hereby pledged and shall be applied to the payment of the reasonable and necessary expenses of operation, repair, maintenance, and insuring of the System, to the payment of the principal of and premium, if any, and the interest on the Water and Sewer Revenue Bonds, to the establishment and maintenance of a reserve for contingencies, and to the providing of a Depreciation Fund, as hereafter set forth. The Water and Sewer Fund, and the other special funds hereafter in this Ordinance provided for or referred to, shall be maintained in such depositories of the City as shall from time to time be designated by the Commission, with all such depositories to hold membership in the Federal Deposit Insurance Corporation (the "FDIC"), to be located in the State of Arkansas, and to have a capital and surplus of not less than Five Million Dollars ($5,000,000), and with all deposits in any depository in excess of the amount insured by the FDIC to be secured by bonds or

other direct or fully guaranteed obligations of the United States of America unless invested in accordance with Section 25 hereof.

Section 7. Water and Sewer Operation and Maintenance Fund. That there shall be paid from the Water and Sewer Fund into a fund created pursuant to the provisions of Ordinance No. 258 and designated "Operation and Maintenance Fund," on the first business day of each month while any Water and Sewer Revenue Bonds are outstanding, an amount sufficient to pay the reasonable and necessary monthly expenses of operation, repair, maintenance, and insuring of the System for such month and from which disbursement shall be made only for those purposes. Fixed annual charges such as insurance premiums and the cost of major repair and maintenance expenses may be computed and set up on an annual basis, and one-twelfth (1/12) of the amount thereof may be paid into the Operation and Maintenance Fund each month.

If in any month for any reason there shall be a failure to transfer and pay the required amount into the Operation and Maintenance Fund, the amount of any deficiency shall be added to the amount otherwise required to be transferred and paid into said Fund in the next succeeding month. If in any fiscal year a surplus shall be accumulated in the Operation and Maintenance Fund over and above the amount which shall be necessary to defray the reasonable and necessary cost of operation, repair, maintenance, and insuring of the System during the remainder of the then current fiscal year and the next ensuing fiscal year, such surplus may be transferred and deposited in the Water and Sewer Revenue Bond Funds (hereinafter created or referred to) or to the Depreciation Fund (created pursuant to the provisions of Ordinance No. 258) as the Commission may designate; provided, however, that any such transfer into the Water and Sewer Revenue Bond Funds shall be in addition to all other payments required to be made into such Funds.

Section 8. 1987 Water and Sewer Revenue Bond Funds. (a) That after making the monthly deposit into the Operation and Maintenance Fund, there shall be transferred and paid 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 Revenue Bond and Interest Sinking Fund created pursuant to the provisions of Ordinance No. 317 the sums required by Ordinance No. 317, (iii) into the Waterworks Revenue Bond and Interest Sinking Fund created pursuant to the provisions of Ordinance No. 322 the sums required by Ordinance No. 322, (iv) into a special fund, which is hereby created and designated "1987A Water and Sewer Revenue Bond 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

principal of and premium, if any, and interest on the Series 1987A Bonds and the Paying Agent's fees in connection therewith as the same become due (at maturity or upon mandatory sinking fund redemption) according to the maturity schedule to be set out in the Ordinance of the City Council, hereinbefore referred to in Section 4 hereof, and to create and maintain a reserve for contingencies, (v) into a special fund, which is hereby created and designated "1987B Water and Sewer Revenue Bond Fund," the sums in the amounts and at the times hereafter stated in subsection (c) for the purpose of providing funds for the payment of the principal of and premium, if any, and interest on the Series 1987B Bonds and the Paying Agent's fees in connection therewith as the same become due (at maturity or upon mandatory sinking fund redemption) according to the maturity schedule to be set out in the Ordinance of the City Council, hereinbefore referred to in Section 3 hereof, and to create and maintain a reserve for contingencies, and (vi) into any water and sewer revenue bond fund established in connection with additional bonds issued pursuant to Section 14 hereof on a parity of security with the Series 1987 Bonds, 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 Water and Sewer Revenue 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 1987A Water and Sewer Revenue Bond Fund and the 1987B Water and Sewer Revenue Bond Fund shall hereafter be collectively referred to as the "1987 Water and Sewer Revenue Bond Fund", and 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 Sewer Revenue Bond and Interest Sinking Fund created pursuant to the provisions of Ordinance No. 317, the Waterworks Revenue Bond and Interest Sinking Fund created pursuant to the provisions of Ordinance No. 322, the 1987 Water and Sewer Revenue Bond Fund, and any water and sewer revenue bond fund established in connection with additional bonds issued pursuant to Section 14 hereof on a parity of security with the Series 1987 Bonds 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 1987A Water and Sewer Revenue Bond Fund the following:

(i) First, into a special account within the 1987A Water and Sewer Revenue Bond Fund which is hereby created and designated "1987A Debt Service Account," commencing on the first business day of the month succeeding the month in which the Series 1987A Bonds are originally issued and on the first business day of each month thereafter until all outstanding Series 1987A Bonds, principal and interest, have been paid in full, or provision made for such payment, a sum

equal to one-sixth (1/6) of the next installment of interest and one-twelfth (1/12) of the next installment of principal (at maturity or upon mandatory sinking fund redemption), plus an amount sufficient to provide for the Paying Agent's fees, on all outstanding Series 1987A Bonds; and

(ii) Second, into a special account within the 1987A Water and Sewer Revenue Bond Fund which is hereby created and designated "1987A Reserve Account," commencing on the first business day of the month succeeding the month in which the amount on hand in the 1987A Reserve Account is less than the 1987A Reserve Requirement (which shall be the average amount that will become due in any year, as reflected by a maturity and mandatory sinking fund redemption schedule to be set forth in the ordinance subsequently adopted, hereinbefore referred to, for principal of and interest on the outstanding Series 1987A Bonds, but not to exceed 10% of the proceeds of the Series 1987A Bonds), a sum equal to one-twelfth (1/12) of the amount necessary to restore the amount on hand in the 1987A Reserve Account to the 1987A Reserve Requirement.

(c) That there shall be paid from the Water and Sewer Fund into a special account within the 1987B Water and Sewer Revenue Bond Fund which is hereby created and designated "1987B Debt Service Account," commencing on the first business day of the month succeeding the month in which the Series 1987B Bonds are originally issued and on the first business day of each month thereafter until all outstanding Series 1987B Bonds, principal and interest, have been paid in full, or provision made for such payment, a sum equal to one-sixth (1/6) of the next installment of interest and one-twelfth (1/12) of the next installment of principal (at maturity or upon mandatory sinking fund redemption), plus an amount sufficient to provide for the Paying Agent's fees, on all outstanding Series 1987B Bonds.

(d) That if the revenues of the System are insufficient to make the required payments into the Water and Sewer Revenue Bond Funds on the first business day of any month, then the amount of any deficiency in the payment shall be added to the amount otherwise required to be paid into the Water and Sewer Revenue Bond Funds on the first business day the next month.

(e) That if for any reason there shall be a failure at any time to make any of the required payments into the 1987A Debt Service Account, any sums then held in the 1987A Reserve Account shall be used to the extent necessary for the payment of the principal of and premium, if any, and interest on the Series 1987A Bonds, and the Paying Agent's fees, but the 1987A Reserve Account (and any reserve account established in connection with the Prior Bonds or additional bonds issued pursuant to Section 14 hereof on a parity of security with the Series 1987

Bonds) shall be reimbursed from the Water and Sewer Fund before any of the moneys in the Water and Sewer Fund shall be used for any other purpose except for making the required monthly payments into the Operation and Maintenance Fund and the Water and Sewer Revenue Bond Funds (including the 1987A Debt Service Account). The 1987A Reserve Account shall be used solely as herein provided.

(f) That when the moneys in the 1987 Water and Sewer Revenue Bond Fund shall be and remain sufficient to pay the principal of and premium, if any, and interest on all Series 1987 Bonds then outstanding, and the Paying Agent's fees, there shall be no obligation to make any further payments into the 1987 Water and Sewer Revenue Bond Fund.

(g) That all moneys in the 1987A Water and Sewer Revenue Bond Fund and all moneys in the 1987B Water and Sewer Revenue Bond Fund shall be used solely for the payment of the principal of and premium, if any, and interest on the Series 1987A Bonds and the Series 1987A Bonds, respectively, and the Paying Agent's fees, except as herein specifically provided. If a surplus shall exist in the 1987A Water and Sewer Revenue Bond Fund or the 1987B Water and Sewer Revenue Bond Fund over and above the amount necessary to insure the prompt payment of the principal of and premium, if any, and interest on the respective Series 1987 Bonds as the same become due and the Paying Agent's fees and over and above the required reserve for contingencies with respect to the Series 1987A Bonds, such surplus may be used, at the option of the Commission, for the redemption of the respective Series 1987 Bonds prior to maturity or for constructing extensions, betterments, and improvements to the System.

(h) That there shall be withdrawn from the 1987A Water and Sewer Revenue Bond Fund and the 1987B Water and Sewer Revenue Bond Fund at least five (5) days before the maturity or mandatory sinking fund redemption date of any Series 1987A Bond or Series 1987B Bond, respectively, and five (5) days before any interest payment date for any such Series 1987 Bond and deposited with the Paying Agent an amount equal to the amount of such Series 1987 Bond or interest thereon for the sole purpose of paying the same, together with the Paying Agent's fee. Such deposit shall be at the sole risk of the City and shall not operate as a payment of the Series 1987 Bond or interest thereon until so applied.

(i) That the Series 1987A Bonds and the Series 1987B Bonds shall be specifically secured by a pledge of all the revenues required to be placed into the 1987A Water and Sewer Revenue Bond Fund and the 1987B Water and Sewer Revenue Bond Fund, respectively. This pledge in favor of the Series 1987 Bonds is hereby irrevocably made according to the terms of this

Ordinance, and the City and its officers and employees shall execute, perform, and carry out the terms thereof in strict conformity with the provisions of this Ordinance.

Section 9. Water and Sewer Depreciation Fund. That after making the required payments into the Operation and Maintenance Fund and the Water and Sewer Revenue Bond Funds, there shall be paid from the Water and Sewer Fund into a fund created pursuant to the provisions of Ordinance No. 258 and designated "Depreciation Fund," on the first business day of each month while any Water and Sewer Revenue Bonds are outstanding, three percent (3%) of the revenues of the System which remain after the required payment into the Operation and Maintenance Fund has been made. The moneys in the Depreciation Fund shall be used solely for the purpose of paying the cost of replacements made necessary by the depreciation of the System, provided, however, that moneys in the Depreciation Fund may be used to the extent necessary to prevent a default in the payment of the principal of and premium, if any, and interest on the Water and Sewer Revenue Bonds as the same become due (at maturity or upon mandatory sinking fund redemption). If in any fiscal year a surplus shall be accumulated in the Depreciation Fund over and above the amount necessary to defray the cost of the probable replacements during the then current fiscal year and the next ensuing fiscal year, such surplus may be transferred and paid into the Water and Sewer Fund.

Section 10. That any surplus in the Water and Sewer Fund, after making the required monthly deposits into the other funds as set forth above, may be used, at the option of the City,

(a) for the redemption of Water and Sewer Revenue Bonds prior to maturity in the manner and upon the terms set forth herein (or in the ordinances or resolutions authorizing the issuance of Water and Sewer Revenue Bonds other than the Series 1987 Bonds) pertaining to redemption prior to maturity; or

(b) for the construction of extensions, betterments, and improvements to the System (including payment of the principal of and premium, if any, and interest on bonds issued therefor); or

(c) for any lawful purpose of the System, as approved by the Commission.

Section 11. That the City hereby agrees that all payments on the Series 1987 Bonds, principal, premium, if any, and interest, shall be paid only through the designated Paying Agent. All Series 1987 Bonds paid or purchased either at or before maturity shall be cancelled when such payment or purchase

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is made, and held by the Manager of the System and shall not be reissued.

Section 12. That the System shall be operated on a fiscal year basis beginning January 1 and ending December 31 of each year.

Section 13. That the Series 1987 Bonds shall be subject to redemption prior to maturity in the manner and upon the terms set forth in the bond form appearing in Section 4 hereof.

Section 14. That as long as any of the Series 1987 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 a priority of lien on the revenues of the System over the lien securing the Series 1987 Bonds, 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 Water and Sewer Revenue Bonds 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 Series 1987 Bonds 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 Water and Sewer Revenue 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 Water and Sewer Revenue 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 outstanding 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.

The additional bonds, the issuance of which is restricted and conditioned by this Section 14, shall not be deemed to mean bonds the security and source of payment of which are subordinate and subject to the priority of the Water and Sewer Revenue Bonds.

Section 15. That Series 1987 Bonds for the payment or full redemption of which moneys or direct, non-callable obligations of the United States of America shall have been deposited with the Trustee (whether upon or prior to the maturity or the redemption date of such Bonds) shall be deemed to be paid and discharged; provided, however, that if such Series 1987 Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given or the Trustee shall have been irrevocably instructed in writing to give such notice of redemption in a timely fashion.

Section 16. That it is covenanted and agreed by the City with the registered owners of the Water and Sewer Revenue Bonds, or any of them, that the City and the Commission will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Arkansas, including the charging and collecting of reasonable and sufficient rates lawfully established for services rendered by the System, the segregating of the revenues of the System as herein required, and the applying of revenues to the respective funds herein created and referred to.

Section 17. That the City and the Commission covenant and agree that they will maintain the System in good condition and operate the same in an efficient manner and at reasonable cost. While any Water and Sewer Revenue Bonds are outstanding, the City and the Commission agree that they will insure and at all times keep insured, in the amount of the actual value thereof, in a responsible insurance company or companies authorized and qualified under the laws of the State of Arkansas to assume the risk thereof, all properties of the System against loss or damage from fire, lightning, tornado, winds, riot, strike, civil commotion, malicious damage, explosion, and against loss or damage from any other causes customarily insured against by private companies engaged in a similar type of business. The insurance policies are to be taken with companies approved by the Commission and the Trustee, are to carry a clause making them payable to the Commission and Trustee as their interests may appear, and are either to be placed in the custody of the Trustee or satisfactory evidence of insurance shall be filed with the Trustee. In the event of loss, the proceeds of such insurance shall be applied solely toward the reconstruction,

replacement, or repair of the System, and in such event the City and the Commission will, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement, and repair work. If such proceeds are more than sufficient for such purposes, the balance remaining shall be deposited to the credit of the Water and Sewer Fund and if such proceeds shall be insufficient for such purposes, the deficiency shall be supplied first, from moneys in the Depreciation Fund, and second, from moneys in the Operation and Maintenance Fund, and third, from available moneys in the Water and Sewer Fund. Nothing herein shall be construed as requiring the City to expend any funds for operation and maintenance of the System or for premiums on insurance which are derived from sources other than the operation of the System, but nothing herein shall be construed as preventing the City from doing so.

Section 18. That the City and the Commission covenant and agree that so long as any Water and Sewer Revenue Bonds are outstanding, that they will not mortgage, pledge, or otherwise encumber the Sewer System or any part thereof or any revenues derived from the operation of the System, except as herein specifically provided, and will not sell, lease, or otherwise dispose of all or any substantial portion of the same. To the end that a record of the pledge of the net revenues of the System and of the agreement not to mortgage the Sewer System may be preserved, the City Clerk is hereby authorized and directed to file with the Circuit Clerk and Ex-officio Recorder of Pope County, Arkansas, a copy of this ordinance duly certified, with instructions that the same be recorded in the office of said County Clerk as in the case of deeds and mortgages.

Section 19. That the Commission shall keep or cause to be kept proper books of accounts and records (separate from all other records and accounts of the City) in which complete and correct entries shall be made of all transactions relating to the construction of the Improvements and relating to the operation of the System and its revenues. Such books shall be available for inspection by the registered owners of any of the Water and Sewer Revenue Bonds at reasonable times and under reasonable circumstances. The City and the Commission agree to have these records audited by an independent certified public accountant at least once each year, and a copy of the audit shall be delivered to the Trustee and any bondowner who shall request the same in writing from the Commission. In the event the City and the Commission fail or refuse to make the audit, the Trustee may, and upon request of the owners of not less than ten percent (10%) in principal amount of the Water and Sewer Revenue Bonds then outstanding shall, have the audit made, and the cost thereof shall be charged against the Operation and Maintenance Fund. In addition, at least once in each twelve (12) months period during the construction of the Improvements, the City and the Commission shall cause an audit to be made by a

certified public accountant covering all moneys pertaining to the Construction Fund (hereinafter created), and the security held therefor and any investments thereof, and all disbursements made pursuant to requisitions filed by the Manager of the System, and copies of such audit shall be furnished to the Trustee and any bondowner who shall request the same in writing from the Commission.

Section 20. That the owner or owners of all improved property lying within the area that will be served by the Sewer System, after the Improvements have been completed, are hereby directed and required, upon written request from the Commission, to connect all toilet and waste water facilities of such improved property with the Sewer System; and the owners of property that is improved after the completion of the Improvements shall, upon written request of the Commission, immediately connect the toilet and waste water facilities of such property with the Sewer System. The required notice by the Commission shall be given at least thirty (30) days prior to the final date for connection, and if any property owner shall fail to make such connection after having been so requested in writing, the City and the Commission hereby covenant and agree to institute appropriate proceedings in a court of competent jurisdiction to compel such connection. Furthermore, any property owner who fails or refuses to connect his or her improved property with the Sewer System after having been so requested by the Commission shall be guilty of a misdemeanor and upon conviction shall be fined in any sum now or hereafter provided in Act 132, and each day's failure or refusal after the expiration of the time fixed in the notice to make the connection shall be a separate offense; provided, however, that the provisions hereof pertaining to a misdemeanor shall be effective only in the event that the City Health Officer, or other duly designated individual or board, has found and declared that such failure on the part of any particular property owner constitutes a hazard to the public health and safety of the City and its inhabitants.

Section 21. That there shall be a statutory mortgage lien upon the improvements to the Water System, which shall exist in favor of the owners and holders of the outstanding Water and Sewer System Revenue Bonds, and each of them, until payment in full of the interest on and principal of such Bonds; provided, however, that such statutory mortgage lien shall be interpreted according to the decision of the Supreme Court of the State of Arkansas in City of Harrison v. Braswell, 209 Ark. 1094, 194 S.W.2d 12 (1946).

Section 22. (a) That the City covenants and agrees that the owners of the Water and Sewer Revenue Bonds shall have the protection of the provisions of Section 13 of Act 132, as amended (Ark. Stat. Ann. §19-4113), and that the City will

diligently proceed to collect the amount of any unpaid sewer charges due together with the penalty and expenses authorized by Act 132. If the City shall fail to proceed within thirty (30) days after written request shall have been filed by the Trustee, the Trustee may, and upon the written request of the owners of not less than ten percent (10%) in principal amount of the Water and Sewer Revenue Bonds then outstanding shall, proceed to recover the amount of unpaid sewer charges together with a penalty of 10% and reasonable attorney's fee, in accordance with and pursuant to the authorization of Act 132.

(b) That if there be any default in the payment of the principal of or premium, if any, or interest on any Water and Sewer Revenue Bonds, or if the City defaults in any Water and Sewer Revenue Bond Funds requirements or in the performance of any of the other covenants contained and set forth in this Ordinance (including, without limitation, failure on the part of the City to maintain the 1987A Reserve Requirement), or if there shall be filed by or against the City a petition in bankruptcy, the Trustee may, and upon the written request of the owners of not less than ten percent (10%) in principal amount of Water and Sewer Revenue Bonds then outstanding shall, by proper suit compel the performance of the duties of the officials of the City as set forth in Act 132. In the case of a default in payment of the principal of and premium, if any, and interest on any of the outstanding Water and Sewer Revenue Bonds, or if the City fails to complete any other obligation which it herein assumes, and such default shall continue for thirty (30) days thereafter, the Trustee may, and upon the written request of the owners of not less than ten percent (10%) in principal amount of the Water and Sewer Revenue Bonds then outstanding shall, apply in a proper action to a court of competent jurisdiction for the appointment of a receiver to administer the System on behalf of the City and the owners of the Water and Sewer Revenue Bonds, with power to charge and collect (or by mandatory injunction or otherwise to cause to be charged and collected) rates sufficient to provide for the payment of the expenses of operation, repair, maintenance, and insuring and to pay the Water and Sewer Revenue Bonds, principal and interest, outstanding and to apply the revenues in conformity with the provisions of Act 132 and this Ordinance. When all defaults in principal, premium, and interest payments have been cured, the custody and operation of the System shall revert to the City.

(c) That no owner of any of the outstanding Water and Sewer Revenue Bonds shall have any right to institute any suit, action, mandamus, or other proceeding in equity or in law for the protection or enforcement of any right under this Ordinance, Act 131, or Act 132, unless such owner previously shall have given to the Trustee written notice of the default on account of which such suit, action, or proceeding is to be taken, and unless the owners of not less than ten percent (10%) in

principal amount of the Water and Sewer Revenue Bonds then outstanding shall have made written request of the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers herein granted or granted by said Act 131, Act 132, or the laws of the State of Arkansas, or to institute such action, suit, or proceeding in its name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses, and liabilities to be incurred therein, or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time, and such notification, request, and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Ordinance or to any other remedy hereunder.

It is hereby declared and intended that no one or more owners of the Series 1987 Bonds shall have any right in any manner whatever by his, her, or their action to affect, disturb, or prejudice the security of this Ordinance, or to enforce any right hereunder except in the manner herein provided, that all proceedings at law or in equity shall be instituted, had, and maintained in the manner herein provided and for the benefit of all owners of the outstanding Water and Sewer Revenue Bonds, and that any individual rights of action or other right given to one or more of such owners by law are restricted by this Ordinance to the rights and remedies herein provided.

(d) That all rights and remedies enforceable by the Trustee may be enforced by it without the possession of any of the Water and Sewer Revenue Bonds, and any such suit, action, or proceeding instituted by the Trustee shall be brought in its name for the benefit of all the owners of all outstanding Water and Sewer Revenue Bonds, subject to the provisions of this Ordinance.

(e) That no remedy conferred upon or reserved to the Trustee or the owners of the Series 1987 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 every other remedy given hereunder or now or hereafter existing or available at law or in equity.

(f) That no delay or omission of the Trustee or any owners of the Water and Sewer Revenue Bonds to exercise any right or power accrued 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 Ordinance to the Trustee and the owners of the Water and

Sewer Revenue Bonds may be exercised from time to time and as often as may be deemed expedient.

(g) That the Trustee may, and upon the written request of the owners of not less than ten percent (10%) in principal amount of Water and Sewer Revenue Bonds then outstanding shall, waive any default which shall have been remedied before the entry of final judgment or decree in any suit, action, or proceeding instituted under the provisions of this Ordinance or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults of impair any rights or remedies consequent thereon.

Section 23. That the Trustee shall only be responsible for the exercise of good faith and reasonable prudence in the execution of its trust. The recitals in this Ordinance and on the face of the Series 1987 Bonds are the recitals of the City and not of the Trustee. The Trustee shall not be required to take any action as Trustee unless it shall have been requested to do so in writing by the owners of not less than ten percent (10%) in principal amount of the Water and Sewer Revenue Bonds then outstanding and shall have been offered reasonable security and indemnity against the costs, expenses, and liabilities to be incurred therein or thereby. The Trustee may resign at any time by ten (10) days' notice in writing to the City, and the majority in value of the owners of the outstanding Series 1987 Bonds at any time, with or without cause, may remove the Trustee. In the event of a vacancy in the office of Trustee, either by resignation or by removal, the majority in value of the owners of the outstanding Series 1987 Bonds may appoint a new Trustee, such appointment to be evidenced by a written instrument or instruments filed with the City Clerk. If the majority in value of the owners of the outstanding Series 1987 Bonds shall fail to fill a vacancy within thirty (30) days after the same shall occur, then the City shall forthwith designate a new Trustee by a written instrument filed in the office of the City Clerk. The original Trustee and any successor Trustee shall file a written acceptance and agreement to execute the trust imposed upon it or them by this Ordinance, but only upon the terms and conditions set forth in this Ordinance and subject to the provisions of this Ordinance, to all of which the owners of the Series 1987 Bonds agree. Such written acceptance shall be filed with the City Clerk, and a copy thereof shall be placed in the bond transcript. Any successor Trustee must be a corporation organized and doing business under the laws of the United States of America or any state, authorized under such laws to exercise corporate trust powers, having its principal office and place of business in the State of Arkansas, having a combined capital and surplus of at least $5,000,000, and subject to supervision or examination by federal or state authorities. Any successor Trustee shall have all the powers herein granted

to the original Trustee. Any Trustee that resigns or is removed pursuant to the provisions hereof shall cease to be Paying Agent and any successor Trustee shall be and become Paying Agent.

Section 24. That when the Series 1987 Bonds have been executed by the Mayor and City Clerk and the seal of the City imprinted thereon, as herein provided, they shall be delivered to the Trustee, which shall authenticate them and deliver them to the purchaser upon the payment of the purchase price (the "total sale proceeds").

The total sale proceeds of the Series 1987A Bonds shall be handled as follows:

(a) There shall be deposited into the 1987A Debt Service Account the amount of the accrued interest paid by the Purchaser;

(b) There shall be deposited into the 1987A Reserve Account an amount equal to the 1987A Reserve Requirement; and

(c) The balance of the total sale proceeds of the Series 1987A Bonds shall be paid into the "1987 Subaccount" of a special fund of the City which is hereby created and designated "1987 Construction Fund" (the "Construction Fund").

The total sale proceeds of the Series 1987B Bonds shall be handled as follows:

(a) There shall be deposited into the 1987B Debt Service Account the amount of the accrued interest paid by the Purchaser; and

(b) The balance of the total sale proceeds of the Series 1987B Bonds shall be paid into the "1987B Subaccount" of the Construction Fund.

The Construction Fund shall be maintained in a depository or depositories, designated by the Commission, which hold membership with the FDIC, are located in the State of Arkansas, and have a capital and surplus of not less than Five Million Dollars ($5,000,000). The moneys in the Construction Fund in excess of the amount insured by the FDIC shall be continuously secured by bonds or other direct or fully guaranteed obligations of the United States of America or shall be invested as hereafter authorized. The moneys in the Construction Fund shall be disbursed for the payment of the cost of accomplishing the Improvements, paying necessary expenses and making necessary expenditures incidental thereto, paying engineering fees, paying legal fees, and paying the expenses of the authorization and issuance of the Series 1987 Bonds. Each disbursement from the Construction Fund shall be made 42% from the 1987A Subaccount and 58% from the 1987B Subaccount. For each disbursement there

shall be prepared a requisition signed by the Mayor of the City stating in respect of each such payment:

(a) The item number of the payment;

(b) The name of the person, firm, or corporation to whom payment is due;

(c) The amount to be paid; and

(d) The purpose by general classification for which the obligation to be paid was incurred.

Each requisition shall be accompanied by a certificate signed by the Mayor of the City certifying:

(1) That obligations in the stated amounts have been incurred by the City and that each item thereof is a proper charge against the Construction Fund and has not been paid;

(2) That there has not been filed with or served upon the City or the Commission notice of any lien, right to lien, attachment upon, or claim affecting the right to receive payment of any of the moneys 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 the payment of such obligation; and

(3) That such requisition contains no item representing payment on account of any retained percentage which the City is at the date of such certificate entitled to retain.

(4) That, with respect to disbursements to be paid from the 1987B Subaccount: (i) at least ninety-five percent (95%) of the amount requested for disbursement from the 1987B Subaccount will be used for the payment of Qualified Project Costs; (ii) not in excess of twenty-five percent (25%) of the amount requested for disbursement from the 1987B Subaccount will be used for land or for any of the facilities referenced in Section 29(k) hereof; (iii) no portion of the amount requested for disbursement from the 1987B Subaccount will be used for the facilities referenced in Section 29(l) hereof; and (iv) no portion of the amount requested for disbursement from the 1987B Subaccount will be used for the acquisition of existing property except upon compliance with Section 29(m) hereof.

In the case of all expenses over which the consulting engineers shall exercise supervision (which generally shall include all expenses and expenditures with respect to the Improvements except engineering fees, legal fees, expenses

pertaining to the authorization and issuance of the Series 1987 Bonds, and incidental expenses not directly related to the construction), the applicable requisition shall be accompanied by a certificate signed by a duly authorized representative of the consulting engineers certifying approval thereof. One copy of each requisition with accompanying certificates shall be filed with the depository of the Construction Fund and one copy shall be filed with the Mayor of the City. Upon receipt of each requisition the depository of the Construction Fund shall disburse funds to the persons, firms, or corporations designated in the requisition. The City shall cause each depository of the Construction Fund to execute an appropriate agreement whereby it accepts it responsibilities as set forth above.

Investment earnings and profits on the 1987B Subaccount of the Construction Fund shall be transferred to the Earnings Fund on receipt thereof. Upon receipt from the City of a statement certifying that no further amounts are to be disbursed for costs of the Improvements, amounts, if any, remaining in the 1987B Subaccount of the Construction Fund shall be transferred into the 1987B Debt Service Account, shall be invested at a Yield not in excess of the Yield of the Series 1987B Bonds on the Interest Payment Date next succeeding the date of transfer, and the 1987B Subaccount of the Construction Fund shall be closed.

When the Improvements have been completed and all authorized expenditures from the Construction Fund have been made, if there be any remaining balance in the 1987A Subaccount of the Construction Fund, and the Mayor of the City shall file a certificate with the depository of the 1987A Subaccount, with a copy of the certificate to be filed with the Trustee, stating that the Improvements have been accomplished and that all authorized expenditures have been made and specifying the disposition to be made of the remaining balance in the 1987A Subaccount of the Construction Fund. In this regard, any such remaining balance may be used for redeeming Series 1987 Bonds prior to maturity or transferred to the Water and Sewer Fund, as shall be determined by the Commission. Upon receipt of such certificate, the depository of the Construction Fund shall disburse or transfer the remaining balance as directed in the certificate.

Section 25. (a) That moneys held for the credit of the Construction Fund, the 1987A Reserve Account, and any other fund and account shall, as nearly as may be practicable, be maintained in such depositories of the City as may from time to time be designated by the Commission, with all such depositories to hold memberships in the FDIC, and with all deposits in any depository in excess of the amount insured by the FDIC to be continuously invested and reinvested by the Commission in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States

Government ("U.S. Government Obligations"), or in certificates of deposit or repurchase agreements issued by any state or national bank which shall have combined capital and surplus of not less than $15,000,000 (which may include the Trustee), such certificates and agreements, to the extent not insured by the FDIC, to be secured by a pledge of U.S. Government Obligations having a market value, to be determined at intervals not exceeding six (6) months, exclusive of accrued interest, equal at least to the principal amount of such certificates of deposit or repurchase agreements. Such investments shall mature, or shall be subject to redemption by the holder thereof, at the option of such holder, not later than the date or dates when the moneys held for the credit of the particular fund will be required for the purposes intended, but not later than six (6) months for investment of moneys in the Construction Fund and not later than five (5) years for investment of moneys in the 1987A Reserve Account.

(b) That obligations so purchased as an investment of moneys in any such fund shall be placed in the custody of the Trustee or at such place or places as the Trustee may designate and shall be deemed at all times to be a part of such fund and the interest accruing thereon and any profit realized from such investment shall be credited to such fund, and any loss resulting from such investment shall be charged to such fund, provided, however, that if earnings on investments of moneys in the 1987A Reserve Account increase the amount thereof in excess of the 1987A Reserve Requirement, the earnings to the the extent of the excess may be transferred out of the 1987A Reserve Account and into the 1987A Debt Service Account and may be used as any other moneys may be used in the 1987A Debt Service Account.

(c) That moneys invested in U.S. Government Obligations or in certificates of deposit of banks to the extent insured by the FDIC need not be secured by the depository bank or banks.

Section 26. That in the event the office of Mayor, City Clerk, Manager of the System, City Council, or Commission shall be abolished, or any two or more of such offices shall be merged or consolidated, or in the event the duties of a particular office shall be transferred to another office or officer, or in the event of a vacancy in any such office by reason of death, resignation, removal from office, or otherwise, or in the event any such officer shall become incapable of performing the duties of his office by reason of sickness, absence from the City, or otherwise, all powers conferred and all obligations and duties imposed upon such office or officer shall be performed by the office or officer succeeding to the principal function thereof, or by the office or officer upon whom such powers, obligations, and duties shall be imposed by law.

Section 27. That the provisions of this Ordinance shall constitute a binding contract among the City and the owners of the Series 1987 Bonds issued hereunder, and the City will at all times strictly adhere to the terms and provisions hereof and fully discharge all of its obligations hereunder. Subject to the terms and provisions contained in this Section and not otherwise, the City may adopt ordinance(s) supplemental hereto as shall be necessary or desirable for any one or more of the following purposes: (i) curing, correcting, or supplementing any defective or inconsistent provisions contained herein as the City may deem necessary or desirable and not inconsistent with this Ordinance and which shall not adversely affect the interest of the owner of the outstanding Water and Sewer Revenue Bonds, (ii) to subject any additional property to the lien of this Ordinance, (iii) to provide for the issuance of additional Water and Sewer Revenue Bonds pursuant to the terms of Section 14 hereof, or (iv) to provide for the amendment of Section 29 hereof in accordance with the provisions thereof. In addition, the owners of not less than seventy-five percent (75%) in aggregate principal amount of the Water and Sewer Revenue Bonds then outstanding shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance supplemental hereto as shall be necessary or desirable for the purpose of modifying, altering, amending, adding to, or resinding, in any particular, any of the terms or provisions contained in this Ordinance or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting (a) an extension of the maturity of the principal of or premium, if any, or the interest on any Series 1987 Bond, or (b) a reduction in the principal amount of any Series 1987 Bond or the rate of interest thereon, or (c) the creation of a lien upon or a pledge of revenues other than the lien and pledge created by this Ordinance, or (d) a privilege of priority of any Series 1987 Bond or Bonds over any other Series 1987 Bond or Bonds, or (e) a reduction in the aggregate principal amount of the Series 1987 Bonds required for consent to such supplemental ordinance.

Section 28. That the City covenants that it shall not take any action or suffer or permit any action to be taken or condition to exist which causes or may cause the interest payable on the Series 1987 Bonds to be subject to federal income taxation. Without limiting the generality of the foregoing, the City covenants that the proceeds of the sale of the Series 1987 Bonds will not be used directly or indirectly in such manner as to cause the Series 1987 Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code.

Section 29. That all terms used in this Section shall have the meanings ascribed thereto in the Code. The City represents, warrants, and covenants that:

(a) The City has not used or permitted the use of, and will not use or permit the use of, the Improvements in such manner as to cause the Series 1987A Bonds to be "private activity bonds" within the meaning of Section 141 of the Code.

(b) None of the gross proceeds of the Series 1987 Bonds (hereby defined to include the original proceeds of the sale of the Series 1987 Bonds, amounts received as a result of investing the original proceeds, and amounts used to pay principal of and interest on the Series 1987 Bonds) will be used (directly or indirectly) either (A) to make or finance loans to persons other than governmental units, or (B) in any trade or business carried on by any person (i) other than a governmental unit or (ii) other than as a member of the general public. In addition, charges for use of the System will be based upon rates for usage only and not by contract with any nongovernmental person and the Improvements will only be used by persons on a basis as members of the general public.

(c) The City will take no action which would cause the Series 1987 Bonds to be "federally guaranteed," specifically, (A) the payment of any portion of principal or interest with respect to the Series 1987 Bonds will not be guaranteed (directly or indirectly) by the United States or any agency or instrumentality thereof, (B) none of the proceeds of the Series 1987 Bonds will be used in making loans the payment of any portion of the principal or interest with respect to which are to be guaranteed by the United States or any agency or instrumentality thereof, and (C) none of the proceeds of the Series 1987 Bonds (exclusive of proceeds invested for an initial temporary period until needed for the purpose for which the Series 1987 Bonds were issued and proceeds deposited into the 1987 Water and Sewer Revenue Bond Fund) will be invested (directly or indirectly) in federally insured deposits or accounts. Nothing in this paragraph (c) shall prohibit investments in bonds issued by the United States Treasury.

(d) The City will submit to the Secretary of the Treasury of the United States, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Series 1987 Bonds are issued, a statement on Form 8038-G concerning the Series 1987A Bonds and a statement on Form 8038 concerning the Series 1987B Bonds.

(e) All net proceeds of the Series 1987 Bonds deposited in the Construction Fund will be spent within three years of the date of issue of the Series 1987 Bonds.

(f) The City hereby designates each of the Series 1987A Bonds as a "qualified tax-exempt obligation" for purposes of Section 265(b) of the Code.

(g) The aggregate face amount of all tax-exempt bonds issued by the City (and all subordinante entities thereof) during 1987 is not reasonably expected to exceed $5,000,000.

(h) The amount of "qualified tax-exempt obligations" which will be issued by the City during 1987 is not reasonably anticipated to exceed $10,000,000.

(i) The City covenants that, from the proceeds of the Series 1987B Bonds received from the Purchaser on the Closing Date and investment earnings thereon, an amount not in excess of two percent (2%) of the face amount of the Series 1987B Bonds shall be used to pay for, or provide for the payment of, 1987B Issuance Costs. For this purpose, if the fees of the 1987B Purchaser are retained as a discount on the purchase of the Series 1987B Bonds, such retention shall be deemed to be an expenditure of proceeds of the Series 1987B Bonds for said fees.

(j) The City covenants that not less than ninety-five percent (95%) of the face amount of the Series 1987B Bonds, plus accrued interest and premium (if any) paid on the purchase of the Series 1987B Bonds by the Purchaser, less original issue discount, are paid for Qualified Project Costs.

(k) The City covenants that not in excess of twenty-five percent (25%) of the face amount of the Series 1987B Bonds plus accrued interest and premium (if any) paid on the purchase of the Series 1987B Bonds by the Purchaser, less original issue discount, if any, shall be used, directly or indirectly, for the acquisition of land or an interest therein or to provide a facility the primary purpose of which is retail food and beverage services, automobile sales and service, or the provision of recreation or entertainment.

(l) The City covenants that no portion of the proceeds of the Series 1987B Bonds shall be used, directly or indirectly, to provide residential real property for family units, any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sport facility (including any handball or racquetball court), hot tub facility, suntan facility, racetrack, airplane, skybox or other private luxury box, health club facility, facility used for gambling, or store the principal business of which is the sale of alcholic beverages for consumption off premises.

(m) The City covenants that no proceeds of the Series 1987B Bonds shall be used for the acquisition of any tangible property or an interest therein, other than land or an interest in land, unless the first use of such property is pursuant to such acquisition; provided, however, that this limitation shall not apply with respect to any building (and the equipment therefor)

if Rehabilitation Expenditures with respect to such building equal or exceed 15 percent of the portion of the cost of acquiring such building (and equipment) financed with proceeds of the Series 1987B Bonds; and provided, further, that this limitation shall not apply with respect to any structure other than a building if Rehabilitation Expenditures with respect to such structure equal or exceed 100 percent of the portion of the cost of acquiring such structure financed with the proceeds of the Series 1987B Bonds.

For the purpose of this Section 29(m), the term "Rehabilitation Expenditures" means any amount properly chargeable to the capital account of the Guarantor or a successor to the Guarantor or by the seller under a sales contract with the Guarantor for the property acquired in connection with the rehabilitation of such property, or in the case of property constituting equipment, in connection with the replacement of such equipment with equipment having substantially the same function, excluding, however, (A) expenditures described in section 48(g)(2)(B) of the Code and (B) amounts incurred after the date two years after the later of the date of acquisition of the property in question or the Closing Date.

(n) The Trustee will agree to modification or rescission of any provisions of this Section in the event that there is delivered to the Trustee an opinion of Bond Counsel, acceptable to the Trustee, to the effect that the modification or rescission (i) is necessary to preserve the exemption of interest on the Series 1987 Bonds from regular federal income tax or (ii) will not adversely affect such federal income tax exemption.

Section 30. Anything herein to the contrary notwithstanding, all rights of any owner of any Series 1987 Bond to or with respect to any moneys or investments held in any fund or account hereunder shall terminate at the expiration of five (5) years from the date of maturity of such Series 1987 Bond, whether by scheduled maturity or by call for redemption prior to maturity in accordance with the terms hereof.

Section 31. The Mayor is hereby directed to publish this Ordinance for one insertion in a newspaper published in the City, with a notice in substantially the following form attached thereto:

NOTICE

Notice is hereby given that the City Council of the City of Atkins, Arkansas, has adopted the ordinance set forth below; that the City contemplates the issuance of the water and sewer revenue bonds described in the ordinance; and that any person

interested may appear before the City Council on the ____ day of _____, 1987, at __:__ __.m., at the usual meeting place of the Council in Atkins, Arkansas, and present protests. At such hearing all objections and suggestions will be heard, and the Council will take such action as is deemed proper in the premises.

DATED this ____ day of _____, 1987.

_____
Mayor

Section 32. That for purposes of this Ordinance, the following definitions shall apply:

Bond Year. The term "Bond Year" means the twelve month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

Closing Date. The term "Closing Date" means the date upon which there is an exchange of the Series 1987B Bonds for the proceeds representing the purchase of the Series 1987B Bonds by the Purchaser.

Code. The term "Code" means the Internal Revenue Code of 1986, as amended.

Debt Service. The term "Debt Service" means the scheduled amount of interest and amortization of principal payable on the Series 1987B Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

Excess Investment Earnings. The term "Excess Investment Earnings" means an amount equal to the sum of:

(i) the excess of

(A) the aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Series 1987B Bonds are invested (other than amounts attributable to an excess described in this paragraph (i)), over

(B) the amount that would have been earned if the Yield on such Nonpurpose Investments (other than amounts attributable to an excess described in this paragraph (i)) had been equal to the Yield on the Series 1987B Bonds,

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plus

(ii) any income attributable to the excess described in paragraph (i).

Gross Proceeds. The term "Gross Proceeds" means the sum of the following amounts:

(i) original proceeds, namely, net amounts received by or for the City as a result of the sale of the Series 1987B Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1987B Bonds;

(ii) investment proceeds, namely, amounts received at any time by or for the City, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1987B Bonds;

(iii) sinking fund proceeds, namely, amounts, other than original proceeds or investment proceeds (as referenced in clauses (i) and (ii) above), of the Series 1987B Bonds, which are held in the 1987B Debt Service Account and any other fund to the extent that the City reasonably expects to use such other fund to pay Debt Service on the Series 1987B Bonds;

(iv) amounts in any fund established as a reasonably required reserve or replacement fund;

(v) Investment Property pledged as security for payment of Debt Service on the Series 1987B Bonds by the City;

(vi) amounts, other than as specified in this definition, used to pay Debt Service on the Series 1987B Bonds; and

(vii) amounts received as a result of investing amounts described in this definition.

Guarantor. The term "Guarantor" means Dean Foods Company, a Delaware corporation.

Investment Property. The term "Investment Property" means any security (as said term is defined in section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract, or investment-type property, excluding, however, obligations the interest on which is excluded from gross income, under section 103 of the Code, for federal income tax purposes.

Issuance Costs. The term "Issuance Costs" means all costs and expenses of issuance of the Series 1987B Bonds, including, but not limited to: (i) underwriter's discount and fees; (ii) counsel fees, including bond counsel, underwriters' counsel, City's counsel, Guarantor's counsel, and special tax counsel fees, as well as any other specialized counsel fees; (iii) financial advisor fees; (iv) rating agency fees; (v) trustee fees and trustee counsel fees; (vi) paying agent and certifying and authenticating agent fees related to issuance of the Series 1987B Bonds; (vii) accountant fees; (viii) printing costs of the Series 1987B Bonds and of the preliminary and final official statement; (ix) publication costs associated with the financing proceedings; and (x) costs of engineering and feasibility studies necessary to the issuance of the Series 1987B Bonds.

Letter of Instructions. The term "Letter of Instructions" means the Letter of Instructions attached as Exhibit A to the Certificate of Arbitrage, delivered by the City at the time of the issuance and delivery of the Series 1987B Bonds, as the same may be amended or supplemented in accordance with its terms.

Net Proceeds. The term "Net Proceeds," when used with reference to the Series 1987B Bonds, means the face amount of the Series 1987B Bonds, plus accrued interest and premium, if any, less original issue discount, if any.

Nonpurpose Investment. The term "Nonpurpose Investment" means any Investment Property which is acquired with the Gross Proceeds of the Series 1987B Bonds and is not acquired in order to carry out the governmental purpose of the Series 1987B Bonds.

Official Action Date. The term "Official Action Date" means April 20, 1987.

Purchaser. The term "Purchaser" means Stephens Inc., the first purchaser of the Series 1987B Bonds from the City.

Purchase Price. The term "Purchase Price," for the purpose of computation of the Yield of the Series 1987B Bonds, has the same meaning as the term "issue price" in sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Series 1987B Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of the Series 1987B Bonds are sold

or, if the Series 1987B Bonds are privately placed, the price paid by the first buyer of the Series 1987B Bonds or the acquisition cost of the first buyer. The term "Purchase Price," for the purpose of computation of the Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Series 1987B Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 1987B Bonds.

Qualified Project Costs. The term "Qualified Project Costs" means costs and expenses of the Improvements which constitute land costs or costs for property of a character subject to the allowance for depreciation excluding specifically working capital and inventory costs, provided, however, that (i) costs or expenses paid or incurred prior to the Official Action Date shall not be deemed to be Qualified Project Costs; (ii) Issuance Costs shall not be deemed to be Qualified Project Costs; (iii) interest during the construction period shall be allocated between Qualified Project Costs and other costs and expenses to be paid from the proceeds of the Series 1987B Bonds; (iv) interest following the construction period shall not constitute a Qualified Project Cost; (v) letter of credit fees and municipal bond insurance premiums which represent a transfer of credit risk shall be allocated between Qualified Project Costs and other costs and expenses to be paid from the proceeds of the Series 1987B Bonds; and (vi) letter of credit fees and municipal bond insurance premiums which do not represent a transfer of the credit risk shall not constitute Qualified Project Costs.

Regulations. The term "Regulations" means temporary and permanent regulations promulgated under the Code.

Yield. The term "Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Series 1987B Bonds produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Series 1987B Bonds, all computed as prescribed in applicable Regulations.

Section 33. (a) Creation of Funds. That there are hereby created, to be held by the Trustee as separate funds distinct from all other funds and accounts held by the Trustee hereunder, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established hereunder, other than (i) interest earnings and profits on the 1987B Debt Service Account and any other funds referenced in subsection (c)(5) of this Section if such earnings in any Bond Year are less than $100,000, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross

Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Trustee, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the City shall, upon receipt, be paid to the Trustee for deposit in the Earnings Fund. Annually, on the last day of each Bond Year or on the preceding business day in the event that such last day is not a business day, the Trustee shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Trustee shall transfer all amounts remaining in the Earnings Fund to the 1987B Debt Service Account to be used for the payment of Debt Serivce on the next interest payment date and for such purpose, Debt Service due from the City on such date shall be credited by an amount equal to the amount so tranferred.

(b) Duties of City in General. That the City shall calculate Excess Investment Earnings in accordance with subsection (c) and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with subsections (d) and (e).

(c) Calculation of Excess Investment Earnings. That within thirty (30) days following the last day of the first Bond Year, the City shall calculate, and shall provide written notice to the Trustee of, the Excess Investment Earnings referenced in paragraph (i) of the definition of Excess Investment Earnings. Thereafter, within thirty (30) days following the last day of each Bond Year and within thirty (30) days following the date of the retirement of the Series 1987B Bonds, the City shall calculate, and shall provide written notice to the Trustee of, the amount of Excess Investment Earnings. Said calcualtions shall be made or caused to be made by the City in accordance with the following:

(1) Except as provided in (2), in determining the amount described in paragraph (i)(A) of the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling, or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under section 453 of the Code relating to taxable year of inclusion of gross income), and

income under section 1272 of the Code (relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Series 1987B Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in paragraph (i) of the definition of Excess Investment Earnings, Investment Property shall be treated as acquired for its fair market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment Property shall be computed with reference to such fair market value as its adjusted basis.

(3) In determining the amount described in paragraph (i)(B) of the definition of Excess Investment Earnings, the Yield on the Series 1987B Bonds shall be determined based on the actual Yield of the Series 1987B Bonds during the period between the Closing Date and the date the computation is made (with adjustments for original issue discount or premium).

(4) In determining the amount described in paragraph (ii) of the definition of Excess Investment Earnings, all income attributable to the excess described in paragraph (i) of said definition must be taken into account, whether or not that income exceeds the Yield on the Series 1987B Bonds, and no amount may be treated as "negative arbitrage."

(5) The City hereby elects, in accordance with Section 149(f)(4) of the Code, that in determining the amount of Excess Investment Earnings, there shall be included any amount earned on any fund or account (e.g., the 1987B Debt Service Account) which is used primarily to achieve a proper matching of revenues and Debt Service within each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of one year's earnings on such fund or account or one-twelfth (1/12) of annual Debt Service as well as amounts earned on said earnings if the gross earnings on such fund or account for the Bond Year are less than $100,000.

(d) Payment to the United States. That the City shall direct the Trustee to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than thirty (30) days after the end of the fifth Bond Year and with subsequent payments to be made not later than five (5) years after the preceding payment was due. The City shall assure that each such installment is in an amount equal to at least 90 percent of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not

later than sixty (60) days after the retirement of the Series 1987B Bonds, the City shall direct the Trustee to pay from the Rebate Fund to the United States 100 percent of the theretofore unpaid Rebate Fund. In the event that there are any amounts remaining in the Rebate Fund following the payment required by the preceding sentence, the Trustee shall pay said amounts to the City to be used for any lawful purpose of the City. The City shall remit payments to the United States at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this subsection (d), the City shall assure that such payments are made by the City to the United States, on a timely basis, from any funds lawfully available therefor.

(e) Further Obligation of City. That the City shall assure that Excess Investment Earnings are not paid or disbursed except as required in this Section. To that end the City shall assure that investment transactions are on an arm's length basis and that Nonpurpose Investments are acquired at their fair market value. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Regulations as from time to time in effect.

(f) Maintenance of Records. That the City shall keep, and retain for a period of six (6) years following the retirement of the Series 1987B Bonds, records of the determinations made pursuant to this Section.

(g) Independent Consultants. That in order to provide for the administration of this Section, the City and the Trustee may provide for the employment of independent attorneys, accountants, and consultants compensated on such reasonable basis as the City or the Trustee may deem appropriate.

Section 34. Notwithstanding any other provision of this Ordinance, all Series 1987A Bonds and Series 1987B Bonds shall be equally and ratably secured as to principal, premium, if any, and interest by this Ordinance, except with respect to the 1987A Reserve Account for the Series 1987A Bonds and the Guaranty Agreement of the Guarantor for the Series 1987B Bonds. The segregation of moneys into separate subaccounts applicable to the Series 1987B Bonds is made solely for the purpose of facilitating compliance with requrirements of the Code that are applicable to the Series 1987B Bonds but inapplicable to the Series 1987A Bonds. Such segregation shall be maintained only so long as there is no actual or impending default of the City hereunder or the Guarantor under the Guaranty Agreement. To the

extent necessary to prevent or cure a default, each of the various subaccounts created in connection with the issuance of the Series 1987B Bonds shall be treated as a part of the corresponding account applicable to Series 1987A Bonds. So long as there is no actual or impending default, moneys shall be deposited to and withdrawn from various accounts and subaccounts as herein provided. In the absence of a specific provision herein, deposits, withdrawals, and investment earnings and losses shall be allocated between corresponding subaccount (e.g., the 1987A Subaccount and the 1987B Subaccount of the Construction Fund) on a porportionate basis.

Section 35. 1987B Issuance Cost Fund. There is hereby created a separate account to be named the "1987B Issuance Cost Fund" to be held by the Trustee. Amounts in the 1987B Issuance Cost Fund shall be disbursed for Issuance Costs upon receipt of a certificate from the City requesting such disbursement and certifying that the entire amount requested for disbursement will be used for the payment of Issuance Costs and that, upon payment of the amount requested, a total amount not in excess of two percent (2%) of the face amount of the Series 1987B Bonds will have been disbursed hereunder for the payment of Issuance Costs. Investment earnings and profits on amounts in the 1987B Issuance Cost Fund shall be transferred to the Earnings Fund on receipt thereof. Amounts, if any, remaining in the 1987B Issuance Cost Fund shall, upon receipt from the City certifying that no further amounts are required to be disbursed for Issuance Costs, be transferred to the 1987B Subaccount of the Construction Fund and the 1987B Issuance Cost Fund shall be closed. No amount in any other fund or account created by this Ordinance shall be expended for Issuance Costs.

Section 36. That this Ordinance shall not create any right of any kind and no right of any kind shall arise hereunder pursuant to it until the Series 1987 Bonds authorized by this Ordinance shall be issued and delivered.

Section 37. That the provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of the Ordinance.

Section 38. That all ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 39. 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 the Series 1987 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

CLERKS CERTIFICATE OF RECORD
STATE OF ARKANSAS - COUNTY OF POPE
I, JUANITA BARBER, Circuit Clerk and Ex-Officio Recorder of the County aforesaid do hereby certify that this instrument was filed for record the 6 day of August A.D. 19 87 at 11 o'clock A M. and the same is now duly recorded in Record Book "22V" Page "406-449"
Witness my hand and the seal of said court this the 6 day of August 1987

JUANITA BARBER
CIRCUIT CLERK AND EX-OFFICIO RECORDER
By Jo Ann Smith

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